

1 BRAMSON, PLUTZIK, MAHLER & BIRKHAEUSER, LLP

2 Daniel E. Birkhaeuser (State Bar No. 136646)

2 dbirkhaeuser@bramsonplutzik.com

3 Robert M. Bramson (State Bar No. 102006)

3 rbramson@bramsonplutzik.com

4 2125 Oak Grove Road, Suite 120

4 Walnut Creek, California 94598

5 Telephone: (925) 945-0200

6 *Attorneys for Plaintiffs*

7 [Additional Counsel Listed on Signature Page]

8

9 **IN THE UNITED STATES DISTRICT COURT**

10 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

11 **SAN JOSE DIVISION**

12 DALIA ZATLIN, BETH CRANDELL, CLARISSA
13 SIMON, KENDALL MARTIN, RODRIGO SAPLA,
14 REBECCA DAVIS, THOMAS MCMANUS,
15 KIMBERLY SCAVONE, MELISSA JU, and
16 CHRIS THOMPSON on behalf of themselves and
17 all others similarly situated,

No.

18 **CLASS ACTION COMPLAINT
FOR VIOLATIONS OF
FEDERAL AND STATE
ANTITRUST LAWS, STATE
UNFAIR COMPETITION
LAWS, AND THE COMMON
LAW OF UNJUST
ENRICHMENT**

19 **(Jury Trial Demanded)**

20 Plaintiffs,
21 v.
22

23 QUALCOMM INCORPORATED, a Delaware
24 Corporation,

25 Defendant

26

27

28

1 Plaintiffs, by and through their undersigned attorneys, bring this proposed class action and,
2 based on information and belief, allege as follows:

3 **I. INTRODUCTION**

4 1. In every cell phone there is a piece of technology known as a baseband processor,
5 also called a “chip,” “chipset,” or “modem,” which enables the phone to communicate with the
6 carrier’s network. Qualcomm Incorporated (“Qualcomm”) is the dominant supplier of baseband
7 processors and a licensor of patents that Qualcomm has declared essential to many cellular devices.
8 For nearly a decade, Qualcomm has unlawfully maintained its monopoly in the baseband processor
9 market by engaging in exclusionary conduct that reduces competition and allows it to extract
10 exorbitant royalties.

11 2. To function, the baseband processor must conform to certain standards that ensure
12 compatibility with the network. These standards are established by Standard Setting Organizations
13 (“SSOs”), which are composed of manufacturers and other interested parties that collaborate to set
14 technology requirements to ensure interoperability among all system components. Qualcomm
15 contributed to the development of various cellular standards and holds numerous related standard-
16 essential patents (“SEPs”). At the time these standards were adopted, Qualcomm committed to
17 license SEPs to all applicants on fair, reasonable, and non-discriminatory (“FRAND”) terms.

18 3. Qualcomm has used its monopoly power to require phone manufacturers (i.e.,
19 downstream customers) to license the SEPs on onerous terms. Specifically, under a policy called
20 “no license-no chips,” Qualcomm withholds its baseband processors unless the phone manufacturer
21 (“original equipment manufacturer” or “OEM”) accepts Qualcomm’s unreasonable licensing terms.
22 OEMs are forced to either submit to Qualcomm’s demands or face supply disruptions that may
23 cripple the manufacturer’s business. Further, the risk of supply disruption deters OEMs from
24 challenging Qualcomm’s licensing terms in court, meaning that Qualcomm’s licensing agreements
25 and the company’s failure to meet its FRAND obligations have largely been shielded from judicial
26 scrutiny.

1 4. The terms of the Qualcomm licenses themselves are harmful to competition. Under
 2 these licensing agreements, Qualcomm requires OEMs to pay excessive royalties on any phone that
 3 uses a baseband processor produced by its competition. As the Federal Trade Commission (“FTC”)
 4 wrote in its recently filed complaint, “Qualcomm in effect collects a ‘tax’ on cell phone
 5 manufacturers when they use non-Qualcomm processors. This tax weakens Qualcomm’s
 6 competitors, including by reducing demand for their processors, and serves to maintain
 7 Qualcomm’s monopoly in baseband processor markets.”¹

8 5. In addition, Qualcomm has used its market position to force major OEMs like Apple
 9 into exclusivity agreements. Such arrangements further protect Qualcomm’s market share and
 10 hinder the ability of its competitors to grow.

11 6. Qualcomm’s monopoly power has enabled it to extract unreasonable rates both for
 12 its chipsets as well as licenses of its patents. In the end, consumers of cellular devices are the ones
 13 who foot the bill for Qualcomm’s anticompetitive conduct.

14 7. Plaintiffs bring this action on behalf of themselves and others similarly situated to
 15 recover for their injuries from Qualcomm’s violation of Sections 2 and 3(b) of the Sherman Act, as
 16 well as violations of state antitrust and consumer protection laws. Plaintiffs and the Class members
 17 seek monetary damages, injunctive relief, and any other available remedies as a result of
 18 Qualcomm’s unlawful conduct.

19 II. PARTIES

20 A. Plaintiffs

21 8. Plaintiff Dalia Zatlin is a resident of San Mateo County, California. During the
 22 Class Period, Dalia Zatlin purchased an Apple iPhone 6 for her own use and not for resale.

23 9. Plaintiff Beth Crandell is a resident of Phoenix, Arizona. During the Class Period,
 24 Beth Crandell purchased an Apple iPhone 6 for her own use and not for resale.

25 10. Plaintiff Clarissa Simon is a resident of the District of Columbia. During the Class
 26 Period, Clarissa Simon purchased an Apple iPhone 6s for her use and not for resale.

27 28 ¹ *FTC v. Qualcomm Inc.*, 17-cv-00220 at 3, Dkt No. 1 (N.D. Cal. Jan. 17, 2017).

1 11. Plaintiff Kendall Martin is a resident of Beverly Hills, Florida. During the Class
 2 Period, Kendall Martin purchased one or more Apple iPhone 7's for her own use and not for resale.

3 12. Plaintiff Rodrigo Sapla is a resident of Lee County, Florida. During the Class
 4 Period, Rodrigo Sapla purchased an Apple iPhone 4 and Samsung Galaxy S6 for his use and not
 5 for resale.

6 13. Plaintiff Rebecca Davis is a resident of Oakland County, Michigan. During the
 7 Class Period, Rebecca Davis purchased an Apple iPhone 4S and an Apple iPhone 6 for her use and
 8 not for resale.

9 14. Plaintiff Thomas McManus is a resident of Manhasset, New York. During the Class
 10 Period, Thomas McManus purchased two Apple iPhone 7'S and one Samsung 7s for his own use
 11 and not for resale.

12 15. Plaintiff Kimberly Scavone is a resident of Clayton, North Carolina. During the
 13 Class Period, Kimberly Scavone purchased an Apple iPhone 6 for her own use and not for resale.

14 16. Plaintiff Melissa Ju is a resident of Pitt County, North Carolina. During the Class
 15 Period, Melissa Ju purchased an Apple iPhone 7 for her own use and not for resale.

16 17. Plaintiff Chris Thompson is a resident of Sandy, Utah. During the Class Period,
 17 Chris Thompson purchased one or more iPhone 6's for his own use and not for resale.

18 **B. Defendant**

19 18. Defendant Qualcomm is a Delaware corporation with its principal place of business
 20 at 5775 Morehouse Drive, San Diego, California 92121. Qualcomm develops, designs, licenses,
 21 and markets its digital communications products and services worldwide, primarily through its two
 22 main business segments: Qualcomm CDMA Technologies ("QCT") and Qualcomm Technology
 23 Licensing ("QTL"), both wholly-owned subsidiaries of Qualcomm. QCT deals with equipment
 24 sales while QTL grants licenses or otherwise provides rights to use portions of Qualcomm's patent
 25 portfolio. QCT is operated by Qualcomm Technologies, Inc. ("QTI"), another wholly-owned
 26 subsidiary of Qualcomm.

27 19. Qualcomm has extensive offices and employees throughout this District, including
 28

1 in San Francisco, Santa Clara, and Alameda counties,² and regularly conducts business here. Many
 2 of its licensees are also located in this District.

3 **III. JURISDICTION AND VENUE**

4 20. This action arises under Section 16 of the Clayton Act, 15 U.S.C. § 26, for
 5 Qualcomm's violations of Sections 2 and 3(b) of the Sherman Act, 15 U.S.C. §§ 2, 3(b). The Court
 6 has subject matter jurisdiction over this claim pursuant to 28 U.S.C. §§ 1331 and 1337.

7 21. Plaintiffs also bring claims under state laws as set forth herein. The Court has
 8 supplemental jurisdiction over these pendant state law claims under 28 U.S.C. §§ 1332(d) and
 9 1367. Each of Plaintiffs' state law claims arises out of the same factual nucleus as Plaintiffs'
 10 federal law claims.

11 22. Venue is proper in this Court pursuant to Section 12 of the Clayton Act, 15 U.S.C. §
 12 22 and 28 U.S.C. § 1391 because a substantial part of the events giving rise to Plaintiffs' claims
 13 occurred in this District, and Qualcomm transacts business and maintains facilities in this District
 14 and thus is subject to personal jurisdiction here. Qualcomm is engaged in interstate commerce, and
 15 its activities, including those activities that form the basis of this Complaint, substantially impact
 16 interstate commerce.

17 **IV. INTRADISTRICT ASSIGNMENT**

19 23. Pursuant to the Northern District of California's Civil Local Rule 3-2(c-e), the
 20 intradistrict assignment should be to the San Jose Division. This action arises in Santa Clara
 21 County because a substantial part of the events giving rise to these claims occurred there.
 22 Additionally, Qualcomm has offices in Santa Clara and San Jose, and third parties that have
 23 information relevant to this action, including leading cellular device manufacturers and Qualcomm
 24 competitors, also have offices in Santa Clara County. As noted above, the FTC also filed a case in
 25 the San Jose Division concerning the same practices at issue in this case.

27 ² Qualcomm, *Offices & Facilities*, <https://www.qualcomm.com/company/facilities/offices> (last visited Feb.
 15, 2017).

1 **V. FACTUAL BACKGROUND**

2 **A. SSOs, SEPs, and FRAND Obligations**

3 24. Interoperability and compatibility are critical for most modern electronic devices. A
4 wireless network (such as those operated by AT&T, Verizon, and Sprint) must be able to
5 communicate with cellular devices utilizing that cellular network and vice-versa. This
6 interoperability is achieved thanks to a component in each cellular device known as a modem
7 chipset or baseband processor. These chipsets manage phone radio functions, enabling phones to
8 transmit and receive information, via radio waves, to and from cellular base stations. Base stations,
9 in turn, transmit information to and from telephone and computer networks. It is essential that all
10 components involved in this transmission be able to communicate seamlessly with one another.

11 25. Because of the multitude of possible devices and technologies, device designers,
12 component manufacturers, and others have agreed to uniform standards to ensure the smooth
13 operation of the wireless network and the cellular devices that connect to it. To achieve this,
14 wireless network carriers, chipset manufacturers, cellular device manufacturers, and others have
15 established SSOs, such as the European Telecommunications Standard Institute (“ETSI”), the
16 International Telecommunications Union (“ITU”), the Institute of Electrical and Electronic
17 Engineers (“IEEE”), and, in the United States, the Telecommunications Industry Association
18 (“TIA”).

19 26. SSOs collaborate to set technology requirements that ensure mass interoperability
20 among all system components. The technology incorporated into a standard is typically chosen
21 from among different options. Once incorporated and widely adopted, that technology is not
22 always used because it is the best or the only option; it is used because it is necessary to comply
23 with the standard. Additionally, technological standards often need to incorporate patented
24 technologies. These are the SEPs discussed previously. To be compliant with the applicable
25 standard, manufacturers of products using the patented technology generally need to license the
26 technology.

1 27. Antitrust law recognizes that, under certain circumstances, collaboration by industry
 2 participants can increase innovation, product quality, and consumer choice. For example, in this
 3 context, collaboration allows consumers to be confident that cellular devices bought from different
 4 manufacturers will operate with each other and with the wireless network that they choose.
 5 Similarly, common standards allow component manufacturers, carriers, and others in the industry
 6 to invest in technological advancement with confidence that their products will work with wireless
 7 networks.

8 28. However, standards can pose challenges to device and device component
 9 manufacturers and can involve tradeoffs for consumers. For example, a company implementing
 10 standards in a product must use certain mandated technologies, even where many viable, and
 11 perhaps even superior alternatives exist. Once a standard is adopted, participants begin to make
 12 investments tied to the implementation of the standard. Because these participants may face
 13 substantial switching costs in abandoning initial designs and substituting a different technology, an
 14 entire industry can become “locked in” to a standard.

15 29. The adoption of SEPs into technological standards also enhances the potential for
 16 abuse by the patent owner. “Patent hold-up” occurs when a SEP holder demands excessive
 17 royalties after companies are locked in to using a standard. Where standardized technologies are
 18 covered by patents, companies that choose to implement a standard in their products have no
 19 choice but to license those patents (and accept the licensor’s terms) or face a lawsuit if they use
 20 the technology without a license. “Royalty stacking” arises when a standard implicates numerous
 21 patents. These royalty payments “stack” on top of each other and, in turn, inflate the cost of the
 22 product to the consumer. Royalty stacking can be a significant concern:

23 The data show that royalty stacking is not merely a theoretical concern. Indeed, . . .
 24 we estimate potential patent royalties in excess of \$120 on a hypothetical \$400
 25 smartphone—which is almost equal to the cost of device’s components. Thus, the
 26 smartphone royalty stack across standardized and non-standardized technology is
 27 significant, and those costs may be undermining industry profitability—and, in turn,
 28

1 diminishing incentives to invest and compete.³

2 30. To help alleviate these potential concerns, before agreeing to a particular standard,
 3 SSOs seek certain assurances from patent owners. Specifically, SSOs request that SEP holders
 4 agree to license their patents on fair, reasonable, and non-discriminatory terms, referred to as a SEP
 5 holder's FRAND obligations. The IEEE asks SEP holders to pledge that they will grant licenses to
 6 an unrestricted number of applicants on "reasonable, and nondiscriminatory" terms. If a patent
 7 holder does not choose to make this promise, the SSOs select a standard without using the
 8 patented technology.

9 31. FRAND obligations are designed to, among other things, prevent SEP holders from
 10 wielding control over essential technology and restricting competition, development, and research
 11 related to the standard. SEP holders generally agree to FRAND terms because SSOs may otherwise
 12 exclude the holder's technologies from the standard. SEP holders also benefit from license fees and
 13 royalties they gain from cooperating with the SSO.

14 32. The TIA has explained this point⁴:

15 16 Market-driven Open Standards can help promote competition and innovation. Such
 17 standards are developed or ratified through a voluntary, open and consensus-based
 18 process.

19 20 This process is defined by flexible policies that balance incentives to participate in
 21 and contribute to the formulation of standards. This process benefits users and
 22 consumers by the broad implementation of the resulting standards. One element of a
 23 voluntary, open and consensus-based process addresses the inclusion of patented
 24 technologies. The patent policies of standards organizations typically find a balance
 25 among differing interests. For example, implementers need to access and use
 26 patented technology included in the standard. Patent holders need to preserve their
 27 rights in a way that encourages them to contribute their innovative solutions to the
 28 standardization effort. "RAND" patent policies seek to provide this type of balance

24 ³ Joseph J. Mueller & Timothy D. Syrett, *The Smartphone Royalty Stack: Surveying Royalty Demands for*
 25 *the Components within Modern Smartphones* (May 29, 2014),
<https://www.wilmerhale.com/pages/publicationsandnewsdetail.aspx?NewsPubId=17179872441>.

26 ⁴ TIA, *Approved 20 June 2008 by the Intellectual Property Rights Standing Committee of the TIA; TIA – A*
 27 *Leading Developer of Open Standards*, tiaonline.org (June 20, 2008),
http://www.tiaonline.org/standards/about/documents/TIA-IPR_20080620-003_TIA_OPEN_STANDARDS-CLEAN_R4.pdf.

1 by helping to make that patented technology available to all on “reasonable and
 2 non-discriminatory” (i.e., RAND) terms and conditions.
 3

4 33. As the United States Court of Appeals for the Third Circuit has also noted in a case
 5 against Qualcomm:
 6

7 [A] standard, by definition, eliminates alternative technologies. When a patented
 8 technology is incorporated in a standard, adoption of the standard eliminates
 9 alternatives to the patented technology. Although a patent confers a lawful
 10 monopoly over the claimed invention, its value is limited when alternative
 11 technologies exist. That value becomes significantly enhanced, however, after the
 12 patent is incorporated in a standard. Firms may become locked in to a standard
 13 requiring the use of a competitor’s patented technology. The patent holder’s
 14 [intellectual property rights], if unconstrained, may permit it to demand
 15 supracompetitive royalties. It is in such circumstances that measures such as
 16 FRAND commitments become important safeguards against monopoly power.
 17

18 *Broadcom Corp. v. Qualcomm Inc.*, 501 F.3d 297, 314 (3d Cir. 2007) (citations omitted).

19 34. When a SEP holder makes a FRAND promise to a SSO, implementers of the
 20 standard and their customers are third-party beneficiaries of that promise. FRAND obligations are
 21 more than a matter of a private contract between owners of technology, on the one hand, and SSOs
 22 and their other members (and implementers of the standard as intended third party beneficiaries),
 23 on the other. Instead, they are a critical precondition for antitrust tolerance of the industry
 24 collaboration on which standard-setting depends.
 25

26 **B. The Cellular Industry and Qualcomm’s Dominance and Abuse of Power**

27 35. Mobile devices are configured for a particular carrier, like AT&T or Verizon, and
 28 thus chipsets designed for a particular wireless device must conform to the standard technology
 chosen for the carrier’s associated network. Chipsets that comply with a given standard are not
 substitutes for chipsets that comply with other standards. These chipsets likewise have different
 price and demand characteristics. Downstream consumers purchase cell phones that include
 chipsets configured to operate using the standards chosen for a particular network, and once
 purchased, those consumers are inextricably tied to that standard for use of that device.

1 36. Wireless standards have evolved in distinct generations, as consumers demanded
 2 more features and the industry responded by developing new innovations. The following graphic,
 3 created by Qualcomm, shows the evolution of this technology.⁵



10 37. For purposes of this case, following the first generation of cellular technology, the
 11 cellular industry developed second generation (“2G”) cellular technology, from which two primary
 12 technology paths, or families of standards, emerged: (1) CDMA, which stands for “Code Division
 13 Multiple Access” and (2) “GSM,” which stands for “global system for mobility.” CDMA is a
 14 channel access method used by various radio communication technologies. It provides multiple
 15 access, where several transmitters can send information simultaneously over a single
 16 communication channel. CDMA is used as the access method in many mobile phone standards.
 17 GSM, an access method widely used in Europe and much of Asia, utilizes a time division multiple
 18 access technology. Wireless network carriers generally operate under one or the other path, with,
 19 for example, Verizon and Sprint operating CDMA-path networks, and AT&T (formerly Cingular)
 20 and T-Mobile operating GSM-path networks. The CDMA and GSM technology paths are not
 21 interoperable; in other words, equipment and technologies designed to be compatible with one
 22 standard cannot be used with the other standard. Qualcomm controlled a number of patents that
 23 are essential to the CDMA standard.

24 38. The third generation (“3G”) of cellular technology was developed in the late 1990s.

25
 26 ⁵ Qualcomm, *The Evolution of Mobile Technologies-1g-2g-3g-4g-lte*, (June 2014),
 27 <https://www.qualcomm.com/media/documents/files/the-evolution-of-mobile-technologies-1g-to-2g-to-3g-to-4g-lte.pdf>.

1 As with the prior generation of cellular technology, 3G evolved into two competing standards—but
 2 this time, both major standards were based on CDMA. These standards were (1) an improved
 3 version of CDMA technology, and (2) the Universal Mobile Telecommunications Service
 4 (“UMTS”) standard. Qualcomm had a smaller share of SEPs related to the UMTS and 3G-CDMA
 5 standards than its share of the 2G-CDMA SEPs. That being said, 3G products function in
 6 combination with 2G technology, meaning the two technologies are often simultaneously deployed
 7 in products.

8 39. The fourth generation of cellular technology (“4G”), which was first introduced in
 9 2009, brought with it the Long Term Evolution of UMTS, also known as “LTE.” Nearly all
 10 cellular-enabled devices sold today support LTE for 4G service. The LTE standard does not
 11 implement CDMA-based technologies. However, Qualcomm holds a share of SEPs for the LTE
 12 standard that is roughly equivalent to that of other industry competitors. One study of declared LTE
 13 SEPs found that Qualcomm had a 13% share of “highly novel” essential LTE patents, compared to
 14 19% for Nokia and 12% for both Ericsson and Samsung. Further, 3G and 4G technology are often
 15 used in tandem through “multimode” chipsets that are compatible with both sets of standards (as
 16 well as 2G standards).

17 **C. Qualcomm’s Monopoly Power in the CDMA and LTE Chipset Markets**

18 40. Qualcomm holds a monopoly position in the CDMA baseband processor market as
 19 well as the LTE baseband processor market. As the FTC alleges, Qualcomm’s market power is
 20 evidenced by “Qualcomm’s ability to use threatened loss of access to baseband processors to raise
 21 the all-in prices of baseband processors, prices that include both nominal processor prices and
 22 license fees.”

23 41. Further, Qualcomm’s market power is evidenced by its market shares. As a result
 24 of Qualcomm’s pioneering the development of CDMA, it controlled, and continues to control, the
 25 market for such technology, initially selling 90% of the CDMA- chipsets and continuing to control
 26 over 80% of the market. Further, Qualcomm has used its CDMA market power, as well as its SEPs
 27 as leverage to gain market share in the LTE chipset market. Even though Qualcomm held
 28

1 relatively few SEPs for the LTE standard, in 2015 it controlled nearly 70% of the LTE chipset
 2 market. And Qualcomm exclusively supplies multimode CDMA-LTE chipsets that are backward
 3 compatible with CDMA.⁶

4 **VI. QUALCOMM HAS ENGAGED IN MONOPOLISTIC AND ANTICOMPETITIVE
 5 BEHAVIOR**

6 42. Qualcomm has used its dominance in the chipset market and its SEPs in
 7 combination with each other to maintain and even strengthen its market power, as well as extract
 8 exorbitant royalties. Specifically, it has engaged in three forms of anticompetitive conduct, which
 9 “organically connect” to form an anticompetitive business model.⁷

10 **A. Qualcomm Refuses to License Its SEPs to Competitors**

11 43. Qualcomm has flatly refused to license its SEPs to competitors, in violation of its
 12 FRAND obligations. As the Korea Fair Trade Commission (“KFTC”) recently found when it
 13 imposed against Qualcomm its largest ever fine, several of Qualcomm’s competitors, such as
 14 Samsung, Intel, and VIA, had requested license agreements. But Qualcomm refused. By not
 15 providing a license to its competitors, Qualcomm makes it necessary for any OEM using a
 16 competitor’s chipset to obtain a license from Qualcomm. Otherwise they are subject to a patent
 17 infringement suit by Qualcomm.

18 **B. Qualcomm Coerces OEMs into Accepting Qualcomm’s Licensing Terms**

20 44. Qualcomm uses its market power in the chipset market to coerce OEMs into
 21 accepting licenses on Qualcomm’s terms. As the FTC explained in its complaint, Qualcomm has
 22 adopted a policy of “no license-no chips.” Under this policy, Qualcomm makes OEMs’ access to
 23 its baseband processors conditional on the OEMs’ acceptance of Qualcomm’s licensing agreement.
 24 As the KFTC explicitly found, Qualcomm has “actually used the threat of terminating the supply of

25
 26 ⁶ Many of the 4G-based cellular devices still implement CDMA-based technology to be backwards-
 27 compatible with other CDMA-based technologies that are still in use today.

28 ⁷ See KFTC Issued Press Release Dated December 28, 2016 – Unofficial English Translation, p. 7,
<https://www.qualcomm.com/documents/kftc-issued-press-release-dated-december-28-2016-unofficial-english-translation> (last visited Feb. 16, 2017)

1 modem chipsets as **negotiation leverage** in the process of license negotiations with handset
 2 companies.” (Emphasized in original).⁸ This threat would be of little significance if Qualcomm
 3 were licensing its competitors. But all of the major OEMs rely on Qualcomm to supply some of
 4 their chipsets. Since a disruption in chipset supply could force OEMs to shut down their entire
 5 business, or at least a significant portion of it, OEMs generally must accede to Qualcomm’s terms.⁹

6 45. Further, the no license-no chips policy deters OEMs from seeking judicial
 7 determinations of what an appropriate FRAND rate should be as well as whether a competitor’s
 8 chipset infringes on Qualcomm’s SEPs.¹⁰ Namely, to challenge Qualcomm’s licensing scheme or
 9 to assert non-infringement of Qualcomm’s SEPs, an OEM risks having its supply of chipsets cut
 10 off—a potentially ruinous result.

11 **C. Qualcomm’s Licensing Terms Are Anticompetitive and Designed to Preserve**
 12 **Qualcomm’s Monopoly Power**

13 46. Qualcomm requires OEMs to acquiesce to licensing terms which are harmful to
 14 competition and have helped Qualcomm maintain its monopoly power in a number of ways. To
 15 begin with, the licensing terms impose a “tax” on the use of competitors’ chipsets. Specifically,
 16 OEMs are forced to pay incremental royalties to Qualcomm on any cellular devices using non-
 17 Qualcomm chips. Per the FTC’s complaint, “the royalties that OEMs pay Qualcomm on handsets
 18 using non-Qualcomm baseband processors do not reflect OEMs’ assessments of patent royalties
 19 that a court or neutral arbiter would deem reasonable, including in light of Qualcomm’s FRAND
 20 commitments.” This licensing term raises the cost for OEMs to use competitors’ chips, thereby
 21 reducing demand for competitors’ chips as well as their ability and incentive to invest and
 22 innovate. And by raising the costs for OEMs to use a competitor’s chips, Qualcomm has been able

23 ⁸ *Id.* at 6.

24 ⁹ *Id.* at 12.

25 ¹⁰ See, e.g. *Realtek Semiconductor Corp. v. LSI Corp.*, No. C-12-3451-RMW, 2014 WL 2738226, at *6
 26 (N.D. Cal. Aug. 16, 2014) (“The court hereby enters declaratory judgment that, upon Realtek’s request for a
 27 license, to be in compliance with its RAND commitment, LSI must offer Realtek a license to the [‘958 Patent](#)
 28 on RAND terms, including a royalty rate of 0.12% on the total sales of Realtek’s products.”); *Microsoft
 Corp. v. Motorola, Inc.*, No. C10-1823JLR, 2013 WL 2111217 (W.D. Wash. April 25, 2013), *aff’d*, 795 F.3d
 1024 (9th Cir. 2015) (determining reasonable rate for licensing Motorola’s patents);

1 to raise the price of its own chips without fear of being underpriced by a competitor. Notably,
 2 “Qualcomm is unique in requiring an OEM, as a condition of sales, to secure a separate patent
 3 license requiring royalty payments for handsets that use a competitor’s components.”

4 47. Furthermore, Qualcomm requires OEMs to cross-license their own patents to
 5 Qualcomm for free. These cross-licenses enable Qualcomm to provide what is known as a “patent
 6 umbrella” to purchasers of its chips. Specifically, “[w]hen an [OEM] purchases chipsets from
 7 Qualcomm, it can benefit from the patent umbrella effect whereby it is exempted from having to
 8 pay royalties to around 200 other patent holders.”¹¹ Conversely, if an OEM purchases chips from
 9 one of Qualcomm’s competitors, the OEM must pay royalties for these patents. The effect of this
 10 practice is to lower the all-in cost of Qualcomm’s chips compared to chips produced by a
 11 competitor, thereby giving Qualcomm a competitive advantage that helps it (1) preserve its market
 12 share, and (2) raise its own chip prices without fear of being underbid.

13 48. Finally, in at least one instance, Qualcomm has coerced an OEM—Apple, one of the
 14 largest cell phone manufacturers—to exclusively use Qualcomm chips. As the FTC explained in
 15 its recently-filed complaint, since 2007, Apple has entered into agreements to deal exclusively with
 16 Qualcomm in exchange for partial relief from Qualcomm’s standard royalties. Samsung has also
 17 entered into a similar exclusive dealing arrangement with Qualcomm.¹² Qualcomm’s exclusive
 18 supply arrangements with these device manufacturers denies other modem chipset suppliers the
 19 benefits of working with those manufacturers and hampers their development into effective
 20 competitors.

21 **VII. QUALCOMM’S BEHAVIOR HAS REDUCED COMPETITION IN THE CDMA
 22 AND LTE BASEBAND PROCESSOR MARKETS**

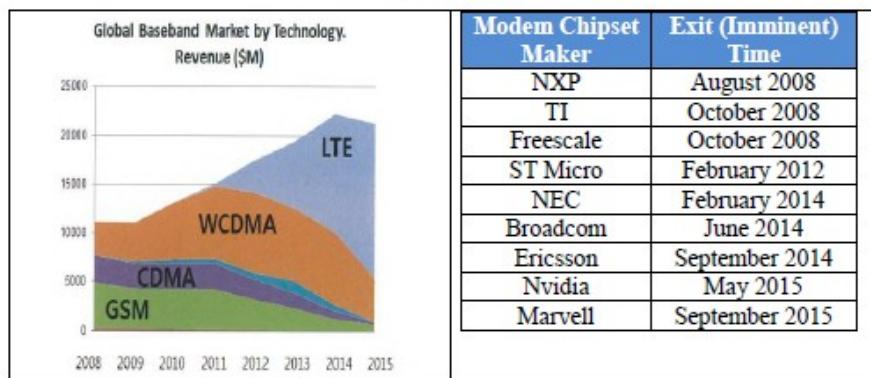
23 49. In 2008, Qualcomm had ten other major chipset manufacturers that competed with
 24 it. Since then, the baseband processor market has doubled in size—from \$10 billion in revenue per

25
 26 ¹¹ See *supra* note 7 at 9.

27
 28 ¹² Joel Hruska, *Qualcomm may have inked exclusive deal to put Snapdragon 820 in Samsung hardware*,
 ExtremeTech.com (Dec. 21, 2015) <https://www.extremetech.com/mobile/219791-qualcomm-may-have-inked-exclusive-deal-to-put-snapdragon-820-in-samsung-hardware>.

1 year to \$20 billion in revenue per year. However nine of Qualcomm's competitors have exited the
 2 market. According to the Korean Fair Trade Commission, the Herfindahl- Hirschman index for the
 3 baseband processor market has increased from 2,224 in 2008 to 4,670 in 2014. The 4G LTE
 4 baseband processor market has gone from moderately concentrated to extremely concentrated in
 5 that period of time. The KFTC prepared the following chart that demonstrated Qualcomm's
 6 incredible success in driving its competitors from the baseband processor market.

7 <Market Growth Trend in the Modem Chipset Market and Market Exit by Major
 8 Chipset Companies>



15 50. Given the substantial increase in industry revenue, the decrease in the number of
 16 manufacturers can only be explained by Qualcomm's anticompetitive conduct making it too
 17 difficult for these manufacturers to compete.

18 **VIII. QUALCOMM'S ANTICOMPETITIVE LICENSING PRACTICES INFLATE THE
 19 PATENT ROYALTIES THAT IT COLLECTS ABOVE COMPETITIVE RATES**

20 51. This dominance in the chipset market, coupled with its ownership of critical SEPs
 21 built into several of the standards adopted by various SSOs, allowed Qualcomm to impose onerous
 22 license terms on device manufacturers, including supracompetitive royalties that are inconsistent
 23 with its FRAND obligations.

24 52. To begin with, Qualcomm refuses to license its SEPs individually. Instead it
 25 requires OEMs to license its entire patent portfolio, which includes many non-essential patents. By
 26 licensing its entire portfolio, Qualcomm seeks to sidestep its FRAND obligations (as FRAND
 27 obligations do not apply to non-SEPs) and to justify charging exorbitant royalties.

1 53. And Qualcomm's royalties certainly are exorbitant. Unlike other SEP licensors,
 2 Qualcomm's royalties "are generally based upon a *percentage of the* wholesale (i.e., licensee's)
 3 selling price of complete licensed products, net of certain permissible deductions (including
 4 transportation, insurance, packing costs and other items)." (Emphases added). Using the entire
 5 value of an end product is not a reasonable basis for calculating SEP-based royalties. As Apple has
 6 pointed out in its complaint, that rate base is calculated as a percentage of the value that Apple's
 7 own research, development, and innovation created in successive generations of iPhones. Indeed,
 8 around February 8, 2015, the IEEE updated its licensing policy, stating that a reasonable royalty
 9 should be the value attributable to a SEP, excluding the value of that SEP's inclusion in an IEEE
 10 standard, and that a factor to consider when determining the reasonable rate is the value of the
 11 relevant functionality of the smallest salable compliant implementation that practices the essential
 12 patent claim.¹³

13 54. Industry analysts have estimated that Qualcomm's patent royalties earn it 3-5% of
 14 the total wholesale price of each cellular device sold, meaning that Qualcomm could be receiving
 15 as much as \$45 in royalties per phone, despite the fact that Qualcomm's patents comprise a much
 16 smaller fraction of the value of the phone. As the following chart shows, these royalty rates are
 17 substantially higher than those of other SEP licensors.

| Company | Announced LTE Rates | No. of Essential LTE Patents |
|-------------|------------------------|------------------------------------|
| 1. Qualcomm | 3.3% | 350 |
| 2. Huawei | 1.5% | 182 |
| 3. Ericsson | 1.5% | 146 |
| 4. Nokia | 1.5% | 142 |
| 5. Nortel | 1.0% | 46 |
| 6. Siemens | 0.8% | 32 |
| 7. Motorola | 2.3% | 16 |
| 8. Alcatel | 2.0% | 9 |

Source: Stasik, Eric, "Royalty Rates and Licensing Strategies for Essential Patents on LTE (4G) Telecommunication Standards," *les Nouvelles*, September 2010, p. 116.

26 13 Deepa Sundararaman, *Inside The IEEE's Important Changes To Patent Policy*, Law360 (Apr. 3, 2015),
 27 <https://www.law360.com/articles/637457/inside-the-ieee-s-important-changes- to-patent-policy>.

1 55. The unfairness and supracompetitive nature of Qualcomm’s rates is further
 2 demonstrated by the fact that Qualcomm’s rates have not changed despite the growth of other
 3 value-contributing features, such as better displays, processors, and cameras, as well as the
 4 expiration of a number of Qualcomm’s SEPs. In sum, Qualcomm has been able to use its market
 5 power to extract royalty rates that are divorced from the actual value attributable to Qualcomm’s
 6 technologies.

7 56. Finally, Qualcomm’s license agreements require OEMs to pay royalties based on
 8 the price of the device as a whole even when the OEM purchases a Qualcomm chip. When every
 9 other major manufacturer of cell phone components sells a part to an OEM, they include a license
 10 to the relevant intellectual property rights as part of that sale. Qualcomm, however, is the only
 11 major manufacturer of a cell phone component—any component—that separately sells the
 12 component and the associated intellectual property. This allows Qualcomm to “double-dip” by
 13 charging OEMs to purchase the chips from Qualcomm and again to license the SEPs.

14 **IX. CONSUMERS ARE HARMED AS A DIRECT RESULT OF QUALCOMM’S
 15 CONDUCT**

16 57. Qualcomm has abused its monopoly power to force device manufacturers and other
 17 licensees to pay excessively high royalties, which has directly resulted in harm to Plaintiffs and
 18 members of the proposed classes because it resulted in them paying higher prices for their cellular
 19 devices than they would have in the absence of Qualcomm’s conduct.

20 58. Consumers typically buy cellular devices either from the device manufacturer, such
 21 as Samsung or Apple, or through their network carrier, such as Verizon or Sprint.

22 59. Device manufacturers and network carriers are subject to vigorous price
 23 competition, and as a result, they do not absorb Qualcomm’s unlawful royalties, which are based
 24 on a percentage of the wholesale cost of the device itself. Instead, they pass along some, or all, of
 25 the excessive royalty to consumers. For instance, baseband processors cost as little as \$10 to \$13,
 26 but royalty demands associated with this component can approach \$60 for a \$400 smartphone.¹⁴

27

¹⁴ See Don Clark, *Qualcomm’s Main Profit Driver is Under Pressure*, The Wall Street Journal (Apr. 13,
 28 2015), <http://www.wsj.com/articles/qualcomms-main-profit-driver-is-under-pressure-1428967051>. ; see

1 This disparity between royalty demands and component costs results in increased costs for cellular
 2 devices, which are directly passed on to the consumer.

3 60. Plaintiffs and members of the proposed classes have been forced to pay supra-
 4 competitive prices for cellular devices. As Qualcomm bases its royalties on a percentage of the
 5 wholesale selling price of a complete licensed product, purchasers of cellular devices are only one
 6 level removed from the unlawful overcharge at issue here.

7 61. Economic and legal scholars have recognized that unlawful overcharges are passed
 8 down the distribution chain. Two antitrust scholars – Professors Robert G. Harris (Professor
 9 Emeritus and former Chair of the Business and Public Policy Group at the Haas School of Business
 10 at the University of California at Berkeley) and the late Lawrence A. Sullivan (Professor of Law
 11 Emeritus at Southwestern Law School and author of the *Handbook of the Law of Antitrust*) – have
 12 observed that “in a multiple-level chain of distribution, passing on monopoly overcharges is not the
 13 exception: it is the rule.”¹⁵

14 62. The FTC concurs in its complaint. It states at paragraph 1 of its complaint that
 15 “Qualcomm has engaged in exclusionary conduct that taxes its competitors’ baseband processor
 16 sales, reduces competitors’ ability and incentive to innovate, and raises prices paid by consumers
 17 for cell phones and tablets.”

18 63. If Qualcomm were forced to stop abusing its monopoly power and charge a fair and
 19 reasonable royalty, consumers would receive better prices when purchasing cellular devices.

20 64. The precise amount of the overcharge impacting the prices of cellular devices
 21 purchased by consumers is measureable through commonly accepted statistical and regression
 22 modeling.

23
 24
 25
 26 *also* Nomura 2012 Smartphone Guide http://www.patenttoday.com/wp-content/uploads/2014/08/nomura_smartphone_poster_2012.pdf (last visited Feb. 15, 2017),

27 ¹⁵ RG Harris & LA Sullivan, *Passing-On the Monopoly Overcharge: A Comprehensive Policy Analysis*, 128
 28 U. PA. L. REV. 269, 276 (1979).

1 **X. MARKET DEFINITION**

2 65. The relevant geographic market for purposes of this action is the United States and
 3 its territories.

4 66. The relevant product markets are: (1) the market for CDMA-based and premium
 5 LTE modem chipsets (“Modem Chipset Market”), and (2) the market for intellectual property
 6 rights Qualcomm deems essential to the CDMA or LTE standards (“SEP Licensing Market”).

7 67. Qualcomm directly participates in the market for the sale of the cellular devices to
 8 Plaintiffs and proposed class members by encumbering those devices through its licenses and
 9 related royalties. Specifically, Qualcomm’s royalty payments are calculated as a percentage of the
 10 wholesale price of cellular devices that implement CDMA-based and/or premium LTE
 11 technologies (hereafter, the “Relevant Cellular Devices”). And this royalty calculation method
 12 increases the retail price of the Relevant Cellular Devices. In other words, Qualcomm licenses
 13 technology essential to the operation of cellular devices and obtains monopoly rents tied directly to
 14 the entire wholesale price of the Relevant Cellular Devices. The effect of Qualcomm’s
 15 anticompetitive conduct is thus targeted at the cellular device as a whole and not components
 16 thereof. Accordingly, because Qualcomm royalties are based on the wholesale selling price of
 17 complete licensed products, the patent rights owned by Qualcomm are inextricably intertwined
 18 with the cellular devices themselves. As a result, Qualcomm’s anticompetitive acts, as alleged
 19 herein, directly distorted the price of the cellular devices paid by Plaintiffs.

20 68. Relatedly, Plaintiffs and Class members may not use Relevant Cellular Devices
 21 without the licenses provided by Qualcomm.

22 69. Plaintiffs’ injuries are also inextricably intertwined with Qualcomm’s
 23 anticompetitive conduct with respect to modem chipsets and abuse of patent rights because it has
 24 increased the cost to them of purchasing the Relevant Cellular Devices by, among other things, (1)
 25 eliminating competition, (2) allowing Qualcomm to charge supracompetitive prices for its chipsets
 26 and licenses, and (3) forcing device manufacturers to agree to onerous licensing terms (with
 27 unreasonable royalties).

XI. CLASS ACTION ALLEGATIONS

70. Plaintiffs bring this action on behalf of themselves and as a class action under Rule 23(a) and (b)(2), of the Federal Rules of Civil Procedure, seeking equitable and injunctive relief, as well as under Rule 23(b)(3) for monetary relief under California law, on behalf of the following class (the “Nationwide Class”):

All persons and entities in the United States who purchased, paid and/or provided reimbursement for some or all of the purchase price for CDMA-based and/or premium LTE cellular devices (“Relevant Cellular Devices”) from January 17, 2013 through the present. This class excludes: (a) Defendant, its officers, directors, management, employees, subsidiaries, and affiliates; (b) all federal and state governmental entities except for those who have purchased Relevant Cellular Devices; (c) all persons or entities who purchased Relevant Cellular Devices for purposes of resale or directly from Defendant; (d) any judges or justices involved in this action and any members of their immediate families or their staff.

71. Alternatively to the claim for nationwide monetary relief under California law, Plaintiffs also brings this action on behalf of themselves and as a class action under Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure seeking damages or monetary relief pursuant to the common law of unjust enrichment and individual state antitrust, unfair competition, and consumer protection laws for each of the states listed below (the “Indirect Purchaser States”)¹⁶ on behalf of the following class (the “Damages Class”):

All persons and entities in the United States who purchased, paid and/or provided reimbursement for some or all of the purchase price for CDMA-based, and/or premium LTE cellular devices (“Relevant Cellular Devices”) from January 17, 2011 through the present. This class excludes: (a) Defendant, its officers, directors, management, employees, subsidiaries, and affiliates; (b) all federal and state governmental entities except for those who have purchased Relevant Cellular Devices; (c) all persons or entities who purchased Relevant Cellular Devices for purposes of resale or directly from Defendant; (d) any judges or justices involved in this action and any members of their immediate families or their staff.

¹⁶ The “Indirect Purchaser States” consist of Arizona, Arkansas, California, District of Columbia, Florida, Illinois, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oregon, Rhode Island, South Dakota, Tennessee, Utah, Vermont, West Virginia and Wisconsin.

1 72. The Nationwide Class and the Damages Class are referred to herein as the
 2 “Classes.”

3 73. While Plaintiffs do not know the exact number of the members of the Classes,
 4 Plaintiffs believe there are millions of members in each Class.

5 74. Common questions of law and fact exist as to all members of the Classes. This is
 6 particularly true given the nature of Qualcomm’s conduct to acquire and maintain monopoly
 7 power, which was and is generally applicable to all the members of both Classes, thereby making
 8 appropriate relief with respect to the Classes as a whole. Such questions of law and fact common to
 9 the Classes include, but are not limited to:

- 10 · Whether Qualcomm possessed monopoly power over CDMA-based and
 11 premium LTE modem chipsets as well as licenses for intellectual property rights
 12 essential to the CDMA and LTE standards (collectively the “Cellular Device
 13 Components”) in the United States during the Class Period;
- 14 · Whether Qualcomm possessed monopoly power in the Modem Chipset Market
 15 in the United States during the Class Period;
- 16 · Whether Qualcomm willfully acquired or maintained monopoly power in the
 17 Modem Chipset Market in the United States during the Class Period;
- 18 · Whether Qualcomm attempted to possess monopoly power in the Modem
 19 Chipset Market in the United States during the Class Period;
- 20 · Whether Qualcomm possessed monopoly power in the SEP Licensing Market in
 21 the United States during the Class Period;
- 22 · Whether Qualcomm willfully acquired or maintained monopoly power in the
 23 SEP Licensing Market in the United States during the Class Period;
- 24 · Whether Qualcomm attempted to possess monopoly power in the SEP Licensing
 25 Market in the United States during the Class Period;
- 26 · Whether Qualcomm tied the sale of its CDMA- and premium LTE- based
 27 chipsets to the purchase of license rights to its patent portfolio (including SEPs
 28 and non-SEPs);
- Whether Qualcomm tied the sale of its SEPs with the purchase of its non-SEPs;
- Whether Qualcomm’s acquisition and maintenance of its monopolies in the
 29 Cellular Device Components violated Sections 2 and 3(b) of the Sherman Act,
 30 as alleged in the First Claim for Relief;

- 1 · Whether Qualcomm's conduct violated California's Cartwright Act, Cal. Bus. &
2 Prof. Code §§ 16700, *et seq.*, as alleged in the Second Claim for Relief;
- 3 · Whether Qualcomm's conduct violated state antitrust and unfair competition
4 laws, and/or state consumer protection laws, as alleged in the Third through
5 Thirty-Ninth Claims for Relief;
- 6 · Whether Qualcomm unjustly enriched itself to the detriment of Plaintiffs and the
7 members of the Classes, thereby entitling Plaintiffs and the members of the
8 Classes to disgorgement of all benefits derived by Qualcomm, as alleged in the
9 Fortieth Claim for Relief;
- 10 · Whether the conduct of Qualcomm, as alleged in this Complaint, caused injury
11 to the business or property of Plaintiffs and the members of the Classes;
- 12 · The appropriate injunctive and related equitable relief for the Nationwide Class;
13 and
- 14 · The appropriate class-wide measure of damages for the Damages Class.

12 75. Plaintiffs' claims are typical of the claims of the members of the Classes, and
13 Plaintiff will fairly and adequately protect the interests of the Classes. Plaintiff and all members of
14 the Classes are similarly affected by Qualcomm's wrongful conduct in that they paid artificially
15 inflated prices for purchased indirectly from Qualcomm.

16 76. Plaintiffs' claims arise out of the same common course of conduct giving rise to the
17 claims of the other members of the Classes. Plaintiffs' interests are coincident with, and not
18 antagonistic to, those of the other members of the Classes. Plaintiffs are represented by counsel
19 who are competent and experienced in the prosecution of antitrust and class action litigation.

20 77. The questions of law and fact common to the members of the Classes predominate
21 over any questions affecting only individual members, including legal and factual issues relating to
22 liability and damages.

23 78. Class action treatment is a superior method for the fair and efficient adjudication of
24 the controversy, in that, among other things, such treatment will permit a large number of similarly
25 situated persons to prosecute their common claims in a single forum simultaneously, efficiently and
26 without the unnecessary duplication of evidence, effort and expense that numerous individual
27 actions would engender. The benefits of proceeding through the class mechanism, including
28

providing injured persons or entities with a method for obtaining redress for claims that it might not be practicable to pursue individually, substantially outweigh any difficulties that may arise in management of this class action.

79. The prosecution of separate actions by individual members of the Classes would create a risk of inconsistent or varying adjudications, establishing incompatible standards of conduct for Defendant.

XII. CLAIMS AND PRAYER FOR RELIEF

FIRST CLAIM FOR RELIEF

Violation of Sections 2 and 3(b) of the Sherman Act

15 U.S.C. §§ 2, 3(b)

(On Behalf of Nationwide Class for Injunctive and Equitable Relief)

80. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

81. Qualcomm's actions in unlawfully and unreasonably to sustain its dominant market share in the chipset market as discussed herein, constitutes unlawful monopolization of the market for Cellular Device Components, in violation of Sections 2 and 3(b) of the Sherman Act (15 U.S.C. §§ 2, 3(b)).

82. Qualcomm has abused and used unfair and anticompetitive means to sustain its dominant position and market power in the market for Cellular Device Components.

83. Throughout the relevant period, Qualcomm has maintained high and durable market shares in the market for Cellular Device Components. Qualcomm controls the CDMA chipset supply, controlling over 80% of the CDMA modem chipset market at all times relevant to this Complaint. At all times relevant to this complaint, Qualcomm has controlled more than 60% of the Modem Chipset Market with its market share reaching over 90% during portions of the relevant period. And Qualcomm still maintains exclusive control over multimode CDMA-LTE chipsets that are backward compatible with CDMA.

1 84. Qualcomm maintains large shares in these markets because substantial entry barriers
 2 and structural features in the market prevents effective competition. CDMA- and premium LTE-
 3 based technology is not interchangeable with or substitutable for other technologies, and users of
 4 this technology have become effectively “locked-in” to Qualcomm’s technology because their
 5 commitment to this technology means no effective and cost-efficient alternatives are practicable.

6 85. Further, because Qualcomm controls the patents or SEPs underlying CDMA
 7 technology, Qualcomm has been able to maintain this monopoly by, among other things, refusing
 8 to license to competitors and requiring chipset purchasers to accept its licensing terms which
 9 inhibit competition. Similarly, Qualcomm’s power in this markets is shown by and enhanced by its
 10 ability as the dominant player in the market to force device manufacturers to accept one-sided,
 11 unreasonable supply terms. Among other things, Qualcomm has used its control over the CDMA
 12 chipset supply to require purchasers to agree to its license agreements and related terms, including
 13 excessively high royalties and other terms Qualcomm unilaterally sets.

14 86. Qualcomm also has monopoly power over the SEP Licensing Market. SSOs have
 15 selected standards based on technology for which Qualcomm owns the patents (based on the
 16 condition that Qualcomm would supply its technology on FRAND terms). As to market share,
 17 Qualcomm holds virtually all of the SEPS—the essential patents—for CDMA standard-based
 18 technologies, which underlie virtually all 3G devices and 4G-LTE devices which are 3G-
 19 compatible. Qualcomm has licensed its patent portfolio for 3G cellular devices to more than 200
 20 licensees. As these patents are “essential” to the CDMA standard, other patents and patented
 21 technology cannot replace or serve as an alternative for Qualcomm’s patents. Qualcomm’s market
 22 power over the SEP Licensing Market is further demonstrated Qualcomm’s ability to leverage its
 23 control of its patents to force OEMs to agree to unfair and unreasonable license agreements and
 24 terms, including excessive royalties. Because OEMs need to use Qualcomm’s technology for their
 25 devices to communicate with the major carrier networks, they are forced to agree to Qualcomm’s
 26 unfair and unreasonable licensing terms.

1 87. Thus, Qualcomm's actions have resulted in the acquisition and maintenance of its
 2 market power over Cellular Device Components. These means with which Qualcomm has acquired
 3 and maintain such market power, including excluding competitors and forcing OEMs to agree to
 4 non-FRAND terms are blatantly anticompetitive means.

5 88. Qualcomm also has illegally maintained its market power in the SEP Licensing
 6 Market. SSOs selected standards based on Qualcomm technology on the condition that Qualcomm
 7 would supply its technology on FRAND terms. Thus, Qualcomm holds virtually all of the SEPS—the
 8 essential patents—for CDMA standard-based technologies, which underlie virtually all 3G
 9 devices and 4G-LTE devices. These patents are “essential” to the relevant CDMA standards,
 10 meaning that other technology cannot replace or serve as an alternative for Qualcomm’s
 11 technology. While Qualcomm has licensed its patent portfolio for 3G cellular devices to more than
 12 200 licensees, its market power has enabled it to force OEMs to agree to unfair and unreasonable
 13 license agreements and terms, including excessive royalties.

14 89. Qualcomm has not licensed its technologies using FRAND terms, but instead has
 15 imposed more restrictive and expensive terms on technology licensees and will continue to do so
 16 unless restrained and enjoined by this Court.

17 90. Thus, Qualcomm has acquired and maintained of its market power in the Cellular
 18 Device Components described above through anticompetitive means—among other things,
 19 excluding competitors and forcing OEMs to agree to non-FRAND terms.

20 91. Qualcomm’s market power means it can set terms for using its technology,
 21 including royalty rates, without other firms competing to drive down these prices. Specifically,
 22 Qualcomm’s control over the Cellular Device Components has allowed it to force license
 23 agreements on its competitors and OEMs, and its license agreements allow Qualcomm to charge a
 24 licensing fee plus ongoing royalties of between three to five percent (3-5%) of the wholesale price
 25 of the completed device. In other words, each Relevant Cellular Device sold with or based on
 26 Qualcomm technology is also encumbered by Qualcomm’s excessive royalties. The excessive
 27 royalty rates in turn increase the cost of Relevant Cellular Devices purchased by consumers, such
 28

as Plaintiffs and members of the Classes.

92. Qualcomm's actions lack procompetitive justification. Qualcomm induced SSOs to set standards based upon Qualcomm's technology by promising to license its technologies consistent with FRAND obligations. By inducing SSO's to use its technologies, SSO did not utilize other (potentially superior) technologies in setting their standards. Qualcomm, however, has effectively repudiated its FRAND obligations by forcing OEMs to accept unfair and unreasonable license terms, including, but not limited to, unreasonable and excessive royalty rates based on the completed device's price rather than the portion of a completed device's value that can be attributable to Qualcomm's technology.

93. Qualcomm's actions have artificially raised prices for the relevant chipsets to artificially high, non-competitive levels throughout the United States. In addition, it is likely that Qualcomm's actions have stifled new technologies, reducing consumer choice and device quality.

94. By engaging in this anticompetitive and illegal activity, Qualcomm has injured Plaintiffs and members of the Class injured in their businesses and property by paying more for their mobile devices and having fewer choices when they buy those devices than would have been the case absent Qualcomm's anticompetitive actions. Further, allowing Qualcomm to continue its illegal actions will harm Plaintiffs and Class members in the future as they purchase new devices.

95. Pursuant to Sections 2 and 3(b) of the Sherman Act and Section 16 of the Clayton Act, Plaintiffs and members of the Classes are thus entitled to a declaration that Qualcomm's actions constitute an illegal abuse of its market power under Section 2 and an injunction requiring Qualcomm cease its unlawful and anticompetitive actions.

VIOLATIONS OF STATE ANTITRUST LAWS

96. Plaintiffs incorporate by reference the allegations in the preceding paragraphs.

SECOND CLAIM FOR RELIEF

For Violation of the Cartwright Act, Cal. Bus. & Prof. Code §§ 16700, *et seq.*

(On Behalf of All Plaintiffs)

97. Plaintiffs repeat the allegations set forth above as if fully set forth herein.

1 98. During the Class Period, Qualcomm engaged in monopolistic and anticompetitive
 2 conduct in unreasonable restraint of trade and commerce and in violation of California Business
 3 and Professions Code sections 16700, *et seq.* effectively coercing its customers to agree to
 4 unreasonable terms of trade to obtain access to Qualcomm's technology. Despite its FRAND
 5 obligations, Qualcomm imposed royalty rates that were unreasonable and exceeded what it could
 6 have obtained in a true FRAND negotiation and had those rates and other terms written into the
 7 terms of agreements between itself and its customers, leading to higher prices for Relevant Cellular
 8 Devices bought by Plaintiffs and members of the classes. This conduct constitutes a "combination"
 9 under the Cartwright Act.

10 99. By using its market power to creating agreements designed to artificially inflate
 11 prices, Qualcomm established a unlawful and anticompetitive scheme that allowed it to acquire and
 12 maintain monopoly power, exclude competition and artificially inflate prices in the Modem
 13 Chipset Market and SEP Licensing Market, harming Plaintiffs and members of the Classes by
 14 causing them to pay higher prices for their Relevant Cellular Devices than they would have absent
 15 Qualcomm's illegal conduct.

16 100. The Relevant Cellular Devices are commodities.

17 101. As a direct result of Qualcomm's unlawful conduct, Plaintiffs and the Class were
 18 overcharged when they purchased their Relevant Cellular Devices.

19 102. Because Qualcomm's has its headquarters and principal place of business in
 20 California and the relevant illegal conduct flowed from those offices, California law properly
 21 applies to Qualcomm's conduct and thus the claims of all Class members. Qualcomm reaped the
 22 profits of its illegal activities in California and extracted artificially inflated prices from companies
 23 and individuals in California from the licensing of its technology and the sale of mobile devices in
 24 the nation's largest consumer market – California. Because Qualcomm knew or was reckless in not
 25 knowing the impact of the actions it performed in California, application of California law is
 26 appropriate.

THIRD CLAIM FOR RELIEF

Nationwide Claim For Violations of Unfair Competition Law,

Cal. Bus. & Prof. Code §§ 17200, et seq.

(On Behalf of All Plaintiffs)

103. Plaintiffs repeat the allegations set forth above as if fully set forth herein.

104. Qualcomm's conduct constitutes a violation of California's Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, et seq., which protects consumers from illegal, fraudulent and unfair business practices.

105. Plaintiffs bring this claim on behalf of themselves, and the classes, and on behalf of the public as private attorneys general pursuant to Cal. Bus. & Prof. Code § 17204.

106. Qualcomm unlawfully acquired and maintained its monopoly over the Modem Chipset Market and SEP Licensing Market through anticompetitive conduct, including, among other things, excluding competitors by refusing to license its technology to them, engaging in exclusive dealing arrangements with its customers to keep out competitors, and forcing OEMs to license its patent portfolio. This conduct constitutes violations of the Sherman Act and the Cartwright Act and thus violates Cal. Bus. & Prof. Code § 17200.

107. Qualcomm acts deceptively by inducing SSOs to use its technology by falsely promising it will license its technologies in accordance with FRAND. But Qualcomm refuses to do so.

108. Qualcomm's conduct is unfair to Plaintiffs and members of the class because as a direct result of its acts described above, Plaintiffs and members of the Classes were charged more for their Relevant Cellular Devices than they would have been but for Qualcomm's conduct.

109. Plaintiffs and the Class seek and are entitled to all forms of relief available under California's Unfair Competition Law. Pursuant to Cal. Bus. & Prof. Code § 17203, Plaintiffs and the Damages Class seek from Qualcomm restitution and the disgorgement of all earnings, profits, compensation, benefits and other ill-gotten gains obtained by Qualcomm as a result of its conduct in violation of Business & Professions Code § 17200 et seq.

110. Because Qualcomm's has its headquarters and principal place of business in California and the relevant illegal conduct flowed from those offices, California law properly applies to Qualcomm's conduct and thus the claims of all Class members. Qualcomm reaped the profits of its illegal activities in California and extracted artificially inflated prices from companies and individuals in California from the licensing of its technology and the sale of mobile devices in the nation's largest consumer market – California. Because Qualcomm knew or was reckless in not knowing the impact of the actions it performed in California, application of California law is appropriate.

111. Pursuant to Business & Professions Code § 17204, Plaintiffs and the Classes seek an order from this Court enjoining Qualcomm from continuing to engage in the acts as set forth in this Complaint, acts that violate Business & Professions Code § 17200 et seq. Plaintiffs, class members and the public will be irreparably harmed if such an order is not granted.

FOURTH CLAIM FOR RELIEF

Violation of Arizona's Uniform State Antitrust Act, Ariz. Rev. Stat. § 44-1401, et seq

(On Behalf of the Arizona Class Members)

112. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

113. By reason of the conduct alleged herein, Qualcomm has engaged in conduct prohibited by Arizona Rev. Stat. § 44-1403. More specifically, Qualcomm's actions established, maintained and used monopoly power to exclude competition and inflate, control or maintain prices for its technology, by establishing, utilizing and maintaining monopoly power in the Modem Chipset Market and SEP Licensing Market through anticompetitive conduct described above, including, among other things, excluding competitors by refusing to license its technology to them, forcing exclusive dealing arrangements on its customers to reduce competition, and forcing OEMs to license its patent portfolio.

114. Members of the Arizona class purchased Relevant Cellular Devices within the State of Arizona during the Class Period. But for Qualcomm's conduct set forth herein, the price of their Relevant Cellular Devices would have been lower, in an amount to be determined at trial.

115. Qualcomm's violations of Arizona law were flagrant.

116. Qualcomm's unlawful conduct substantially affected Arizona's trade and commerce.

117. As a direct and proximate cause of Qualcomm's unlawful conduct, the Plaintiffs and members of the Arizona Class have been injured in their business or property and are threatened with further injury because Plaintiffs and members of the class were charged more for their Relevant Cellular Devices than they would have been but for Qualcomm's conduct.

118. By reason of the foregoing, Plaintiffs and members of the Arizona Class are entitled to seek all forms of relief available under Arizona Revised Statute § 44-1408, including appropriate equitable relief, attorney's fees, taxable costs, and damages (including trebled damages).

FIFTH CLAIM FOR RELIEF

Violation of the District of Columbia Antitrust Act,

D.C. Code § 28-4501, et seq.

(On Behalf of the District of Columbia Class Members)

119. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

120. The policy of District of Columbia Code, Title 28, Chapter 45 (Restraints of Trade) is to "promote the unhampered freedom of commerce and industry throughout the District of Columbia by prohibiting restraints of trade and monopolistic practices."

121. Members of the District of Columbia class purchased Relevant Cellular Devices within the District of Columbia during the Class Period. But for Qualcomm's conduct set forth herein, the price of their Relevant Cellular Devices would have been lower, in an amount to be determined at trial.

122. Under District of Columbia law, indirect purchasers have standing to maintain an action under the antitrust provisions of the D.C. Code based on the facts alleged in this Complaint, because “any indirect purchaser in the chain of manufacture, production or distribution of goods...shall be deemed to be injured within the meaning of this chapter.” D.C. Code § 28-4509(a).

123. Qualcomm restrained trade in, and monopolized the Modem Chipset Market and SEP Licensing Market through anticompetitive conduct described above, including, among other things, excluding competitors by refusing to license its technology to them, forcing exclusive dealing arrangements on its customers to reduce competition, and forcing OEMs to license its patent portfolio, thus restraining and monopolizing trade in the District of Columbia, in violation of D.C. Code § 28-4501, et seq.

124. Members of the Classes were injured with respect to purchases of Relevant Cellular Devices because they paid more than they would have been but for Qualcomm's conduct and are entitled to all forms of relief, including actual damages, treble damages, and interest, reasonable attorneys' fees and costs.

SIXTH CLAIM FOR RELIEF

Violation of the Illinois Antitrust Act,

740 Ill. Comp. Stat. Ann. 10/3(1), et seq.

(On Behalf of the Illinois Class Members)

125. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

126. The Illinois Antitrust Act, 740 ILCS 10/1, et seq., aims “to promote the unhampered growth of commerce and industry throughout the State by prohibiting restraints of trade which are secured through monopolistic or oligarchic practices and which act or tend to act to decrease competition between and among persons engaged in commerce and trade” 740 ILCS 10/2.

127. Class members purchased Relevant Cellular Devices within the State of Illinois during the Class Period. But for Qualcomm's conduct set forth herein, the prices for their Relevant Cellular Devices would have been lower, in an amount to be determined at trial.

128. Under the Illinois Antitrust Act, indirect purchasers have standing to maintain an action for damages based on the facts alleged in this Complaint. 740 ILCS 10/7(2).

129. Qualcomm's actions illegally created and maintained monopoly power over the relevant markets, artificially inflating prices for Relevant Cellular Devices and excluding competition in the relevant markets, restraining competition within the intrastate commerce of Illinois in violation of 740 ILCS 10/1, et seq.

130. Members of the Classes were injured with respect to purchases of their Relevant Cellular Devices and are entitled to all forms of relief, including actual damages, treble damages, reasonable attorneys' fees and costs.

SEVENTH CLAIM FOR RELIEF

Violation of the Iowa Competition Law

Iowa Code § 553.1, et seq.

(On Behalf of the Iowa Class Members)

131. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

132. The Iowa Competition Law aims to “prohibit[] restraint of economic activity and monopolistic practices,” Iowa Code § 553.2, and prohibits “establish[ing], maintain[ing], or us[ing] a monopoly of trade or commerce in a relevant market for the purpose of excluding competition or of controlling, fixing, or maintaining prices”. Iowa Code § 533.5.

133. Class members purchased Relevant Cellular Devices within the State of Iowa during the Class Period. But for Qualcomm's conduct set forth herein, they would have paid lower prices for their Relevant Cellular Devices, in an amount to be determined at trial.

134. Qualcomm monopolized the Modem Chipset Market and SEP Licensing Market through anticompetitive conduct described above, including, among other things, excluding competitors by refusing to license its technology to them, forcing exclusive dealing arrangements on its customers to reduce competition, and forcing OEMs to license its patent portfolio, thus

excluding competition and artificially raising prices above competitive levels, in violation of Iowa Code § 553.5, et seq.

135. Members of the Classes were injured with respect to purchases of Relevant Cellular Devices in Iowa, and are entitled to all forms of relief, including actual damages, exemplary damages for willful conduct, reasonable attorneys' fees and costs, and injunctive relief.

EIGHTH CLAIM FOR RELIEF

Violation of the Kansas Restraint of Trade Act

Kan. Stat. Ann. § 50-101, et seq.

(On Behalf of the Kansas Class Members)

136. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

137. The Kansas Restraint of Trade Act aims to prohibit practices which, *inter alia*, "tend to prevent full and free competition in the importation, transportation or sale of articles imported into this state." Kan. Stat. Ann. § 50-112.

138. As noted above, Qualcomm used its monopoly power to effectively coerce its customers to agree to unreasonable terms of trade to obtain access to Qualcomm’s technology. Despite its FRAND obligations, Qualcomm imposed royalty rates that were unreasonable and exceeded what it could have obtained in a true FRAND negotiation and had those rates and other terms written into the terms of agreements between itself and its customers, creating combinations that artificially prevented full and free competition in the markets for goods and technology delivered to and sold in Kansas.

139. By using its market power to creating agreements designed to artificially inflate prices, Qualcomm established a unlawful and anticompetitive scheme that allowed it to acquire and maintain monopoly power, exclude competition and artificially inflate prices in the Modem Chipset Market and SEP Licensing Market.

140. Class members purchased Relevant Cellular Devices within the State of Kansas during the Class Period. But for Qualcomm's conduct set forth herein, the price of Relevant Cellular Devices would have been lower, in an amount to be determined at trial.

141. Under the Kansas Restraint of Trade Act, indirect purchasers have standing to maintain an action based on the facts alleged in this Complaint for actions by an illegal monopoly that injures them. Kan. Stat. Ann § 50-161(b).

142. Plaintiffs and members of the Class were injured with respect to purchases of Relevant Cellular Devices in Kansas and are entitled to all forms of relief, including actual damages, reasonable attorneys' fees and costs, and injunctive relief.

NINTH CLAIM FOR RELIEF

Violation of the Maine's Antitrust Statute

Me. Rev. Stat. Ann. Tit. 10 § 1101, et seq.

(On Behalf of the Maine Class Members)

143. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

144. Part 3 of Title 10 the Maine Revised Statutes generally governs regulation of trade in Maine. Chapter 201 thereof governs monopolies and profiteering, generally prohibiting contracts in restraint of trade and monopolization of trade. Me. Rev. Stat. Ann. Tit. 10, §§ 1101-02.

145. Class members purchased Relevant Cellular Devices within the State of Maine during the Class Period. But for Qualcomm's conduct set forth herein, the price of Relevant Cellular Devices would have been lower, in an amount to be determined at trial.

146. Under Maine law, indirect purchasers have standing to maintain an action based on the facts alleged in this Complaint. Me. Rev. Stat. Ann. Tit. 10, § 1104(1).

147. Qualcomm monopolized the Modem Chipset Market and SEP Licensing Market through anticompetitive conduct described above, including, among other things, excluding competitors by refusing to license its technology to them, engaging in exclusive dealing

1 arrangements with its customers to reduce competition, and forcing OEMs to license its patent
 2 portfolio, restraining and monopolizing market for Relevant Cellular Devices within the intrastate
 3 commerce of Maine, in violation of Me. Rev. Stat. Ann. Tit. 10, § 1102.

4 148. Members of the Classes were injured with respect to purchases of Relevant Cellular
 5 Devices in Maine and are entitled to all forms of relief, including actual damages, treble damages,
 6 reasonable attorneys' and experts' fees and costs.

7 **TENTH CLAIM FOR RELIEF**

8 **Violation of the Michigan Antitrust Reform Act**

9 **Mich. Comp. Laws § 445.771, et seq.**

10 **(On Behalf of the Michigan Class Members)**

12 149. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every
 13 allegation set forth in the preceding paragraphs of this Complaint.

14 150. The Michigan Antitrust Reform Act aims “to prohibit monopolies and attempts to
 15 monopolize trade or commerce...[and] to provide remedies, fines, and penalties for violations of
 16 this act.” Mich. Act 274 of 1984.

17 151. Class members purchased Relevant Cellular Devices within the State of Michigan
 18 during the Class Period. But for Qualcomm’s conduct set forth herein, the prices for their Relevant
 19 Cellular Devices would have been lower, in an amount to be determined at trial.

20 152. Under the Michigan Antitrust Reform Act, indirect purchasers have standing to
 21 maintain an action based on the facts alleged in this Complaint. Mich. Comp. Laws. § 452.778(2).

22 153. Qualcomm monopolized the Modem Chipset Market and SEP Licensing Market
 23 through anticompetitive conduct described above, including, among other things, excluding
 24 competitors by refusing to license its technology to them, engaging in exclusive dealing
 25 arrangements with its customers to reduce competition, and forcing OEMs to license its patent
 26 portfolio, thus restraining and monopolizing market for Relevant Cellular Devices, in violation of
 27 Mich. Comp. Laws § 445.773, et seq.

154. Members of the Classes were injured with respect to purchases of Relevant Cellular Devices in Michigan and are entitled to all forms of relief, including actual damages, treble damages for flagrant violations, interest, costs, reasonable attorneys' fees, and injunctive or other appropriate equitable relief.

ELEVENTH CLAIM FOR RELIEF

Violation of the Minnesota Antitrust Law,

Minn. Stat. § 325D.49, et seq.

(On Behalf of the Minnesota Class Members)

155. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

156. The Minnesota Antitrust Law of 1971 aims to prohibit any establishment, maintenance or use of monopoly power; and any attempt to establish, maintain or use monopoly power, whenever any of these affect Minnesota trade or commerce.

157. Members of the Classes purchased Relevant Cellular Devices within the State of Minnesota during the Class Period. But for Qualcomm's conduct set forth herein, the prices for their Relevant Cellular Devices would have been lower, in an amount to be determined at trial.

158. Under the Minnesota Antitrust Act of 1971, indirect purchasers have standing to maintain an action based on the facts alleged in this Complaint. Minn. Stat. § 325D.56.

159. Qualcomm monopolized the Modem Chipset Market and SEP Licensing Market through anticompetitive conduct described above, including, among other things, excluding competitors by refusing to license its technology to them, engaging in exclusive dealing arrangements with its customers to reduce competition, and forcing OEMs to license its patent portfolio, restraining and monopolizing market for Relevant Cellular Devices in violation of Minn. Stat. § 325D.52.

160. Members of the Classes were injured with respect to purchases of Relevant Cellular Devices in Minnesota and are entitled to all forms of relief, including actual damages, treble

1 damages, costs and disbursements, reasonable attorneys' fees, and injunctive relief necessary to
 2 prevent and restrain violations hereof.

3 **TWELVTH CLAIM FOR RELIEF**

4 **Violation of the Mississippi Antitrust Statute,**

5 **Miss. Code Ann. § 74-21-1, et seq.**

6 **(On Behalf of the Mississippi Class Members)**

7
 8 161. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every
 9 allegation set forth in the preceding paragraphs of this Complaint.

10 162. Title 75 of the Mississippi Code regulates trade, commerce and investments.
 11 Chapter 21 thereof generally prohibits trusts in restraint or hindrance of trade, with the aim that
 12 "trusts and combines may be suppressed, and the benefits arising from competition in business
 13 [are] preserved" to Mississippians. Miss. Code Ann. § 75-21-39.

14 163. Trusts are combinations, contracts, understandings or agreements, express or
 15 implied, when inimical to the public welfare and with the effect of, *inter alia*, restraining trade,
 16 increasing the price or output of a commodity, or hindering competition in the production or sale of
 17 a commodity. Miss. Code Ann. § 75-21-1.

18 164. Members of the Classes purchased Relevant Cellular Devices within the State of
 19 Mississippi during the Class Period. But for Qualcomm's conduct set forth herein, the prices for
 20 their Relevant Cellular Devices would have been lower, in an amount to be determined at trial.

21 165. Under Mississippi law, indirect purchasers have standing to maintain an action
 22 under the antitrust provisions of the Mississippi Code based on the facts alleged in this Complaint.
 23 Miss. Code Ann. § 75-21-9.

24 166. As noted above, Qualcomm used its monopoly power to effectively coerce its
 25 customers to agree to unreasonable terms of trade to obtain access to Qualcomm's technology.
 26 Despite its FRAND obligations, Qualcomm imposed royalty rates that were unreasonable and
 27 exceeded what it could have obtained in a true FRAND negotiation and had those rates and other

1 terms written into the terms of agreements between itself and its customers, creating combinations
 2 that artificially prevented full and free competition in the markets for goods and technology
 3 delivered to and sold in Mississippi.

4 167. By using its market power to creating agreements designed to artificially inflate
 5 prices, Qualcomm established a unlawful and anticompetitive scheme that allowed it to acquire and
 6 maintain monopoly power, exclude competition and artificially inflate prices in the Modem
 7 Chipset Market and SEP Licensing Market, thus leading to higher prices for the Relevant Cellular
 8 Devices purchased by members of the Classes, all in violation of Miss. Code Ann. § 75-21-1(a)
 9 and Miss. Code Ann. § 75-21-3, et seq.

10 168. Qualcomm's goods and technology are sold throughout the State of Mississippi.
 11 During the Class Period, Qualcomm's illegal conduct substantially affected Mississippi commerce.

12 169. Members of the Classes were injured with respect to purchases of Relevant Cellular
 13 Devices in Mississippi and are entitled to all forms of relief, including actual damages and a
 14 penalty of \$500 per instance of injury.

15 **THIRTEENTH CLAIM FOR RELIEF**

16 **Violation of the Nebraska Junkin Act,**

17 **Neb. Rev. Stat. § 59-801, et seq.**

18 **(On Behalf of the Nebraska Class Members)**

20 170. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every
 21 allegation set forth in the preceding paragraphs of this Complaint.

22 171. Chapter 59 of the Nebraska Revised Statute generally governs business and trade
 23 practices. Sections 801 through 831 thereof, known as the Junkin Act, prohibit antitrust violations
 24 such as restraints of trade and monopolization.

25 172. Members of the Classes purchased Relevant Cellular Devices within the State of
 26 Nebraska during the Class Period. But for Qualcomm's conduct set forth herein, the prices they
 27 paid for the Relevant Cellular Devices would have been lower, in an amount to be determined at
 28

1 trial.

2 173. Under Nebraska law, indirect purchasers have standing to maintain an action under
 3 the Junkin Act based on the facts alleged in this Complaint. Neb. Rev. Stat. § 59-821.

4 174. Qualcomm monopolized the Modem Chipset Market and SEP Licensing Market
 5 through anticompetitive conduct described above, including, among other things, excluding
 6 competitors by refusing to license its technology to them, engaging in exclusive dealing
 7 arrangements with its customers to keep out competitors, and forcing OEMs to license its patent
 8 portfolio, restraining and monopolizing the market for Relevant Cellular Devices within the
 9 intrastate commerce of Nebraska in violation of Neb. Rev. Stat. § 59-802, et seq.

10 175. Members of the Classes were injured with respect to purchases of Relevant Cellular
 11 Devices in Nebraska and are entitled to all forms of relief, including actual damages or liquidated
 12 damages in an amount which bears a reasonable relation to the actual damages which have been
 13 sustained, as well as reasonable attorneys' fees, costs, and injunctive relief.

14 **FOURTEENTH CLAIM FOR RELIEF**

15 **Violation of the Nevada Unfair Trade Practices Act,**

16 **Nev. Rev. Stat. § 598A.010, et seq.**

17 **(On Behalf of the Nevada Class Members)**

19 176. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every
 20 allegation set forth in the preceding paragraphs of this Complaint.

21 177. The Nevada Unfair Trade Practice Act ("NUTPA") states that "free, open and
 22 competitive production and sale of commodities...is necessary to the economic well-being of the
 23 citizens of the State of Nevada." Nev. Rev. Stat. Ann. § 598A.030(1).

24 178. The policy of NUTPA is to prohibit acts in restraint of trade or commerce, to
 25 preserve and protect the free, open and competitive market, and to penalize all persons engaged in
 26 anticompetitive practices. Nev. Rev. Stat. Ann. § 598A.030(2). Such acts include, inter alia, price
 27 fixing, division of markets, allocation of customers, and monopolization of trade. Nev. Rev. Stat.

1 Ann. § 598A.060.

2 179. Members of the Classes purchased Relevant Cellular Devices within the State of
 3 Nevada during the Class Period. But for Qualcomm's conduct set forth herein, the prices for their
 4 Relevant Cellular Devices would have been lower, in an amount to be determined at trial.

5 180. Under Nevada law, indirect purchasers have standing to maintain an action under
 6 NUTPA based on the facts alleged in this Complaint. Nev. Rev. Stat. Ann. §598A.210(2).

7 181. Qualcomm monopolized the Modem Chipset Market and SEP Licensing Market
 8 through anticompetitive conduct described above, including, among other things, excluding
 9 competitors by refusing to license its technology to them, engaging in exclusive dealing
 10 arrangements with its customers to keep out competitors, and forcing OEMs to license its patent
 11 portfolio, restraining and monopolizing the market for Relevant Cellular Devices within the
 12 intrastate commerce of Nevada, violating Nev. Rev. Stat. Ann. § 598A.60(e).

13 182. Members of the Classes were injured with respect to their purchases of Relevant
 14 Cellular Devices in Nevada. Accordingly, Plaintiffs and members of the Nevada Class are entitled
 15 to all forms of relief, including actual damages, treble damages, reasonable attorneys' fees, costs,
 16 and injunctive relief.

17 183. In accordance with the requirements of § 598A.210(3), notice of this action was
 18 mailed to the Nevada Attorney General by Plaintiffs.

19 **FIFTEENTH CLAIM FOR RELIEF**

20 **Violation of New Hampshire's Antitrust Statute,
 21 N.H. Rev. Stat. Ann. Tit. XXXI, § 356, et seq.**

22 **(On Behalf of the New Hampshire Class Members)**

23 184. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every
 24 allegation set forth in the preceding paragraphs of this Complaint.

25 185. Title XXXI of the New Hampshire Statutes generally governs trade and commerce.
 26 Chapter 356 thereof governs combinations and monopolies and prohibits restraints of trade. N.H.
 27

1 Rev. Stat. Ann. §§ 356:2, 3.

2 186. Members of the Classes purchased Relevant Cellular Devices within the State of
 3 New Hampshire during the Class Period. But for Qualcomm's conduct set forth herein, the prices
 4 they paid for their Relevant Cellular Devices would have been lower, in an amount to be
 5 determined at trial.

6 187. Under New Hampshire law, indirect purchasers have standing to maintain an action
 7 based on the facts alleged in this Complaint. N.H. Rev. Stat. Ann. § 356:11(II).

8 188. Qualcomm monopolized the Modem Chipset Market and SEP Licensing Market
 9 through anticompetitive conduct described above, including, among other things, excluding
 10 competitors by refusing to license its technology to them, engaging in exclusive dealing
 11 arrangements with its customers to keep out competitors, and forcing OEMs to license its patent
 12 portfolio, restraining and monopolizing the market for Relevant Cellular Devices. This affected the
 13 sales of Relevant Cellular Devices within the intrastate commerce of in violation of N.H. Rev. Stat.
 14 Ann. § 356:3, et seq.

15 189. Members of the Classes were injured with respect to their purchases of Relevant
 16 Cellular Devices in New Hampshire and are entitled to all forms of relief, including actual damages
 17 sustained, treble damages for willful or flagrant violations, reasonable attorneys' fees, costs, and
 18 injunctive relief.

19 **SIXTEENTH CLAIM FOR RELIEF**

20 **Violation of the New Mexico Antitrust Act,**

21 **N.M. Stat. Ann. §§ 57-1-1, et seq.**

22 **(On Behalf of the New Mexico Class Members)**

23 190. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every
 24 allegation set forth in the preceding paragraphs of this Complaint.

25 191. The New Mexico Antitrust Act prohibits restraints of trade and monopolistic
 26 practices. N.M. Stat. Ann. 57-1-2, et seq.

192. Members of the Classes purchased Relevant Cellular Devices within the State of New Mexico during the Class Period. But for Qualcomm's conduct set forth herein, the prices paid for their Relevant Cellular Devices would have been lower, in an amount to be determined at trial.

193. Under New Mexico law, indirect purchasers have standing to maintain an action based on the facts alleged in this Complaint. N.M. Stat. Ann. § 57-1-3.

194. Qualcomm monopolized the Modem Chipset Market and SEP Licensing Market through anticompetitive conduct described above, including, among other things, excluding competitors by refusing to license its technology to them, engaging in exclusive dealing arrangements with its customers to keep out competitors, and forcing OEMs to license its patent portfolio, thus restraining and monopolizing the market for Relevant Cellular Devices in New Mexico in violation of N.M. Stat. Ann. § 57-1-2, et seq.

195. Members of the Classes were injured with respect to purchases of Relevant Cellular Devices in New Mexico and are entitled to all forms of relief, including actual damages, treble damages, reasonable attorneys' fees, costs, and injunctive relief.

SEVENTEENTH CLAIM FOR RELIEF

Violation of Section 340 of the New York General Business Law

(On Behalf of the New York Class Members)

196. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

197. Article 22 of the New York General Business Law general prohibits monopolies and contracts or agreements in restraint of trade, with the policy of encouraging competition or the free exercise of any activity in the conduct of any business, trade or commerce in New York. N.Y. Gen. Bus. Law § 340(1).

198. Plaintiff Thomas McManus and members of the Classes purchased Relevant Cellular Devices within the State of New York during the Class Period. But for Qualcomm's conduct set forth herein, the prices they paid for Relevant Cellular Devices would have been lower.

1 in an amount to be determined at trial.

2 199. Under New York law, indirect purchasers have standing to maintain an action based
 3 on the facts alleged in this Complaint. N.Y. Gen. Bus. Law § 340(6).

4 200. Qualcomm monopolized the Modem Chipset Market and SEP Licensing Market
 5 through anticompetitive conduct described above, including, among other things, excluding
 6 competitors by refusing to license its technology to them, engaging in exclusive dealing
 7 arrangements with its customers to keep out competitors, and forcing OEMs to license its patent
 8 portfolio, restraining and monopolizing the market for Relevant Cellular Devices in New York.
 9 Qualcomm's conduct violated N.Y. Gen. Bus. Law § 340, et seq.

10 201. Members of the Classes were injured with respect to purchases of Relevant Cellular
 11 Devices in New York and are entitled to all forms of relief, including actual damages, treble
 12 damages, costs not exceeding \$10,000, and reasonable attorneys' fees.

13 **EIGHTEENTH CLAIM FOR RELIEF**

14 **Violation of the North Carolina General Statutes,**
 15 **N.C. Gen. Stat. § 75-1, et seq.**

16 **(On Behalf of the North Carolina Class Members)**

18 202. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every
 19 allegation set forth in the preceding paragraphs of this Complaint.

20 203. Qualcomm monopolized the Modem Chipset Market and SEP Licensing Market
 21 through anticompetitive conduct described above, including, among other things, excluding
 22 competitors by refusing to license its technology to them, engaging in exclusive dealing
 23 arrangements with its customers to keep out competitors, and forcing OEMs to license its patent
 24 portfolio, thus restraining and monopolizing the market for Relevant Cellular Devices in North
 25 Carolina. As a result, unlawful conduct substantially affected North Carolina's trade and
 26 commerce.

204. As a direct and proximate cause of Qualcomm's unlawful conduct, Members of the Classes have been injured in their business or property and are threatened with further injury.

205. By reason of the foregoing, Members of the Classes are entitled to seek all forms of relief available, including treble damages, under N.C. Gen. Stat. § 75-1, et seq.

NINETEENTH CLAIM FOR RELIEF

Violation of the North Dakota Uniform State Antitrust Act,

N.D. Cent. Code § 51-08.1, et seq.

(On Behalf of the North Dakota Class Members)

206. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

207. The North Dakota Uniform State Antitrust Act generally prohibits monopolization of trade. N.D. Cent. Code § 51-08.1-03, et seq.

208. Members of the Classes purchased Relevant Cellular Devices within the State of North Dakota during the Class Period. But for Qualcomm's conduct set forth herein, the prices paid for Relevant Cellular Devices in North Dakota would have been lower, in an amount to be determined at trial.

209. Under the North Dakota Uniform State Antitrust Act, indirect purchasers have standing to maintain an action based on the facts alleged in this Complaint. N.D. Cent. Code § 51-08.1-08.

210. Qualcomm established, maintained and used monopoly power in the Modem Chipset Market and SEP Licensing Market through anticompetitive conduct described above, including, among other things, excluding competitors by refusing to license its technology to them, engaging in exclusive dealing arrangements with its customers to keep out competitors, and forcing OEMs to license its patent portfolio, restraining and monopolizing the market for Relevant Cellular Devices in North Dakota and artificially raising prices for Relevant Cellular Devices in North Dakota, in violation of N.D. Cent. Code §§ 51-08.1-03

211. Members of the Classes were injured with respect to purchases in North Dakota and are entitled to all forms of relief, including actual damages, treble damages for flagrant violations, costs, reasonable attorneys' fees, and injunctive or other equitable relief.

TWENTIETH CLAIM FOR RELIEF

Violation of the Oregon Antitrust Law,

Or. Rev. Stat. § 646.705, et seq.

(On Behalf of the Oregon Class Members)

212. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

213. Chapter 646 of the Oregon Revised Statutes generally governs business and trade practices within Oregon. Sections 705 through 899 thereof govern antitrust violations, with the policy to “encourage free and open competition in the interest of the general welfare and economy of the state,” Or. Rev. Stat. § 646.715, in part by prohibiting monopolization of trade. Or. Rev., Stat. § 646.730.

214. Members of the Classes purchased Relevant Cellular Devices within the State of Oregon during the Class Period. But for Qualcomm's conduct set forth herein, the prices the Members of the Oregon Class paid for their Relevant Cellular Devices would have been lower, in an amount to be determined at trial.

215. Under Oregon law, indirect purchasers have standing under the antitrust provisions of the Oregon Revised Statutes to maintain an action based on the facts alleged in this Complaint. Or. Rev. Stat. § 646.780(1)(a).

216. Qualcomm established, maintained and used monopoly power in the Modem Chipset Market and SEP Licensing Market through anticompetitive conduct described above, including, among other things, excluding competitors by refusing to license its technology to them, engaging in exclusive dealing arrangements with its customers to keep out competitors, and forcing OEMs to license its patent portfolio, restraining and monopolizing the market for Relevant Cellular

Devices in Oregon and artificially raising prices for Relevant Cellular Devices in Oregon, in violation of Or. Rev. Stat. § 646.730, et seq.

217. Members of the Classes were injured with respect to their purchases of Relevant Cellular Devices in Oregon, and are entitled to all forms of relief, including actual damages, treble damages, reasonable attorneys' fees, expert witness fees and investigative costs, and injunctive relief.

TWENTY-FIRST CLAIM FOR RELIEF

Violation of the Rhode Island Antitrust Act,

R.I. Gen Laws § 6-36-1, et seq.

(On Behalf of the Rhode Island Class Members)

218. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

219. The Rhode Island Antitrust Act aims to promote the unhampered growth of commerce and industry throughout Rhode Island by prohibiting unreasonable restraints of trade and monopolistic practices that hamper, prevent or decrease competition, R.I. Gen. Laws § 6-36-2(a)(2), in part by prohibiting monopolies. R.I. Gen. Laws § 6-36-5.

220. Members of the Rhode Island Class purchased Relevant Cellular Devices within the State of Rhode Island during the Class Period. But for Qualcomm's conduct set forth herein, the prices Members of the Rhode Island Class paid for their purchases of Relevant Cellular Devices would have been lower, in an amount to be determined at trial.

221. Under the Rhode Island Antitrust Act, as of January 1, 2008, indirect purchasers have standing to maintain an action based on the facts alleged in this Complaint. R.I. Gen. Laws § 6-36-11(a).

222. Qualcomm established, maintained and used monopoly power in the Modem Chipset Market and SEP Licensing Market through anticompetitive conduct, including, among other things, excluding competitors by refusing to license its technology to them, engaging in

exclusive dealing arrangements with its customers to reduce competition, and forcing OEMs to license its patent portfolio, thus restraining and monopolizing the market for Relevant Cellular Devices in Rhode Island and artificially raising prices for Relevant Cellular Devices in Rhode Island, for the purpose of excluding competition and/or maintaining or inflating prices paid for Relevant Cellular Devices in Rhode Island, all in violation of R.I. Gen. Laws § 6-36-1, 5, et seq.

223. Members of the Classes were injured with respect to purchases of Relevant Cellular Devices in Rhode Island and are entitled to all forms of relief, including actual damages, treble damages, reasonable costs, reasonable attorneys' fees, and injunctive relief.

TWENTY-SECOND CLAIM FOR RELIEF

**Violation of the South Dakota Antitrust Statute,
S.D. Codified Laws § 37-1-3.1, et seq.
(On Behalf of the South Dakota Class Members)**

224. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

225. Chapter 37-1 of the South Dakota Codified Laws prohibits restraint of trade, monopolies and discriminatory trade practices. S.D. Codified Laws §§ 37-1-3.1, 3.2.

226. Members of the Classes purchased Relevant Cellular Devices in the State of South Dakota during the Class Period. But for Qualcomm's conduct set forth herein, the prices class members paid for their Relevant Cellular Devices would have been lower, in an amount to be determined at trial.

227. Under South Dakota law, indirect purchasers have standing under the antitrust provisions of the South Dakota Codified Laws to maintain an action based on the facts alleged in this Complaint. S.D. Codified Laws § 37-1-33.

228. Qualcomm established, maintained and used monopoly power in the Modem Chipset Market and SEP Licensing Market through anticompetitive conduct, including, among other things, excluding competitors by refusing to license its technology to them, engaging in

exclusive dealing arrangements with its customers to keep out competitors, and forcing OEMs to license its patent portfolio, restraining and monopolizing the market for Relevant Cellular Devices in South Dakota and artificially raising prices for Relevant Cellular Devices in South Dakota, in violation of S.D. Codified Laws § 37-1-3.2, et seq.

229. Members of the Classes were injured with respect to their purchases of Relevant Cellular Devices in South Dakota and are entitled to all forms of relief, including actual damages, treble damages, taxable costs, reasonable attorneys' fees, and injunctive or other equitable relief.

TWENTY-THIRD CLAIM FOR RELIEF

Claims Under Tennessee Law

Violations of the Tennessee Trade Practices Act

Tenn. Code Ann. §§ 47-25-101, et seq., and

The Tennessee Constitution, TN Const. Art. 1, § 22

(On Behalf of the Tennessee Class Members)

235. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

236. The Tennessee Trade Practices Act reflects a policy of prohibiting business arrangements that lessen competition and increase prices for goods sold in Tennessee. See Tenn. Code Ann. § 47-25-101. This prohibition on anticompetitive actions affecting commerce in the Tennessee reflects (in part) the Tennessee Constitution's prohibition of monopolies. TN Const. Art. 1, § 22.

237. As noted above, Qualcomm had and used its monopoly power to effectively coerce its customers to agree to unreasonable terms of trade to obtain access to Qualcomm's technology. Despite its FRAND obligations, Qualcomm imposed royalty rates that were unreasonable and exceeded what it could have obtained in a true FRAND negotiation and had those rates and other terms written into the terms of agreements between itself and its customers, forcing exclusive dealing arrangements and creating combinations that artificially prevented full and free

1 competition in the markets for goods and technology – Relevant Cellular Devices – delivered to
 2 and sold to the public in Tennessee.

3 238. By using its market power to creating agreements designed to artificially inflate
 4 prices, Qualcomm established a unlawful and anticompetitive scheme that allowed it to acquire and
 5 maintain monopoly power, exclude competition and artificially inflate prices in the Modem
 6 Chipset Market and SEP Licensing Market, artificially raising prices for Relevant Cellular Devices
 7 sold to Class members in Tennessee.

8 239. Members of the Classes purchased Relevant Cellular Devices in the State of
 9 Tennessee during the Class Period. But for Qualcomm’s conduct set forth herein, the prices these
 10 class members for their Relevant Cellular Devices would have been lower, in an amount to be
 11 determined at trial.

12 240. As a direct and proximate result of Qualcomm’s conduct, members of the Classes
 13 were injured with respect to their purchases of Relevant Cellular Devices in Tennessee and are
 14 entitled to all forms of relief, including actual damages, treble damages, taxable costs, reasonable
 15 attorneys’ fees, and injunctive or other equitable relief allowable under Tennessee law.

16 **TWENTY-FOURTH CLAIM FOR RELIEF**

17 **Violation of the Utah Antitrust Act,**

18 **Utah Code Ann. §§ 76-10-911, et seq.**

19 **(On Behalf of the Utah Class Members)**

21 230. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every
 22 allegation set forth in the preceding paragraphs of this Complaint.

23 231. The Utah Antitrust Act aims to “encourage free and open competition in the interest
 24 of the general welfare and economy of this state by prohibiting monopolistic and unfair trade
 25 practices, combinations and conspiracies in restraint of trade or commerce . . .” Utah Code Ann. §
 26 76-10-3102.

232. Plaintiff Chris Thompson and members of the Classes purchased Relevant Cellular Devices in the State of Utah during the Class Period. But for Qualcomm's conduct set forth herein, the prices class members paid for their Relevant Cellular Devices would have been lower, in an amount to be determined at trial.

233. Under the Utah Antitrust Act, indirect purchasers who are either Utah residents or Utah citizens have standing to maintain an action based on the facts alleged in this Complaint. Utah Code Ann. § 76-10-3109(1)(a).

234. Qualcomm established, maintained and used monopoly power in the Modem Chipset Market and SEP Licensing Market through anticompetitive conduct, including, among other things, excluding competitors by refusing to license its technology to them, engaging in exclusive dealing arrangements with its customers to reduce competition, and forcing OEMs to license its patent portfolio, restraining and monopolizing the market for Relevant Cellular Devices in Utah and artificially raising prices for Relevant Cellular Devices in Utah, in violation of Utah Code Ann. § 76-10-3104(2).

235. Members of the Classes were injured with respect to purchases of Relevant Cellular Devices in Utah and are entitled to all forms of relief, including actual damages, treble damages, costs of suit, reasonable attorneys' fees, and injunctive relief.

TWENTY-FIFTH CLAIM FOR RELIEF

Violation of the West Virginia Antitrust Act,

W. Va. Code §47-18-1, et seq.

(On Behalf of the West Virginia Class Members)

236. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

237. Qualcomm's actions set forth above also constitute violations of section 47-18-4 of the West Virginia Code.

238. During the Class Period, Qualcomm established, maintained and used monopoly power in the Modem Chipset Market and SEP Licensing Market through anticompetitive conduct, including, among other things, excluding competitors by refusing to license its technology to them, engaging in exclusive dealing arrangements with its customers to reduce competition, and forcing OEMs to license its patent portfolio, restraining and monopolizing the market for Relevant Cellular Devices in West Virginia and artificially raising prices for Relevant Cellular Devices in West Virginia, in violation of W. Va. Code § 47-18-4.

239. Qualcomm's actions as described above were knowing, willful and constitute violations or flagrant violations of the West Virginia Antitrust Act.

240. As a direct and proximate result of Qualcomm's unlawful conduct, Members of the Classes have been injured in their business and property in that they paid more for Relevant Cellular Devices purchased during the class period in West Virginia than they would have paid in the absence of Qualcomm's unlawful conduct. As a result of Qualcomm's violation of Section 47-18-4 of the West Virginia Antitrust Act, members of the Classes seek treble damages and their cost of suit, including reasonable attorneys' fees, pursuant to section 47-18-9 of the West Virginia Code.

TWENTY-SIXTH CLAIM FOR RELIEF

Violation of the Wisconsin Antitrust Act.

Wis. Stat. Ann. § 133.01(1), et seq.

(On Behalf of the Wisconsin Class Members)

241. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

242. Chapter 133 of the Wisconsin Statutes governs trust and monopolies, with the intent
“to safeguard the public against the creation or perpetuation of monopolies and to foster and
encourage competition by prohibiting unfair and discriminatory business practices which destroy
or hamper competition.” Wis. Stat. § 133.01.

243. Members of the Classes purchased Relevant Cellular Devices in the State of Wisconsin during the Class Period. But for Qualcomm's conduct set forth herein, the prices class members paid for their Relevant Cellular Devices would have been lower, in an amount to be determined at trial.

244. Under Wisconsin law, indirect purchasers have standing under the antitrust provisions of the Wisconsin Statutes to maintain an action based on the facts alleged in this Complaint. Wis. Stat. 133.18(a).

245. Qualcomm established, maintained and used monopoly power in the Modem Chipset Market and SEP Licensing Market through anticompetitive conduct, including, among other things, excluding competitors by refusing to license its technology to them, engaging in exclusive dealing arrangements with its customers to reduce competition, and forcing OEMs to license its patent portfolio, restraining and monopolizing the market for Relevant Cellular Devices in Wisconsin and artificially raising prices for Relevant Cellular Devices in Wisconsin, in violation of Wis. Stat. § 133.03(2).

246. Members of the Classes were injured with respect to purchases of Relevant Cellular Devices in Wisconsin in that the actions alleged herein substantially affected the people of Wisconsin, with at least thousands of consumers in Wisconsin paying substantially higher prices for Relevant Cellular Devices than they should have.

247. Accordingly, members of the Classes are entitled to all forms of relief, including actual damages, treble damages, costs and reasonable attorneys' fees, and injunctive relief available under Wisconsin law.

VIOLATIONS OF STATE CONSUMER PROTECTION LAWS

248. Plaintiffs incorporate by reference the allegations in the preceding paragraphs.

TWENTY-SEVENTH CLAIM FOR RELIEF

Violation of the Arkansas Deceptive Trade Practices Act,

Ark. Code Ann. § 4-88-101, et seq.

(On Behalf of the Arkansas Class Members)

249. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

250. Members of the Classes purchased Relevant Cellular Devices in Arkansas for personal, family, or household purposes. Were it not for Qualcomm's conduct, identified herein, members of the Classes would have and paid less for their Relevant Cellular Devices than they paid, in an amount to be determined at trial.

251. Qualcomm maintained and used monopoly power in the Modem Chipset Market and SEP Licensing Market through anticompetitive conduct, including, among other things, excluding competitors by refusing to license its technology to them, engaging in exclusive dealing arrangements with its customers to reduce competition, and forcing OEMs to license its patent portfolio, restraining and monopolizing the market for Relevant Cellular Devices in Arkansas and artificially raised prices for Relevant Cellular Devices in Arkansas.

252. Qualcomm's conduct was unfair, unconscionable, or deceptive.

253. Qualcomm's conduct misled customers, withheld material facts, and substantially affected Arkansas's trade and commerce.

254. Qualcomm's conduct was willful.

255. As a direct and proximate cause of Qualcomm's unlawful conduct, members of the Classes have been injured in their business or property and are threatened with further injury.

256. By reason of the foregoing, Qualcomm has violated Ark. Code Ann. § 4-88-101, et seq., and members of the Classes are entitled to seek all forms of relief, including actual damages plus reasonable attorney's fees under Ark. Code Ann. § 4-88-113.

TWENTY-EIGHTH CLAIM FOR RELIEF

**Violation of the District of Columbia Consumer Protection Procedures Act,
D.C. Code § 28-3901, et seq.**

(On Behalf of the District of Columbia Class Members)

257. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

258. Plaintiff Clarissa Simon and members of the Classes purchased Relevant Cellular Devices in the District of Columbia for personal, family, or household purposes.

259. By reason of the conduct alleged herein, Qualcomm has violated D.C. Code § 28-3901, et seq.

260. Qualcomm is a “merchant” within the meaning of D.C. Code § 28- 3901(a)(3).

261. Qualcomm established, maintained and used monopoly power in the Modem Chipset Market and SEP Licensing Market through anticompetitive conduct, including, among other things, excluding competitors by refusing to license its technology to them, engaging in exclusive dealing arrangements with its customers to reduce competition, and forcing OEMs to license its patent portfolio, restraining and monopolizing the market for Relevant Cellular Devices in the District of Columbia and artificially raising prices for Relevant Cellular Devices in the District of Columbia.

262. Qualcomm engaged in the conduct identified herein for the purpose of excluding competition and raising prices for its technology.

263. Qualcomm's conduct constitutes an unfair method of competition, and an unfair or deceptive act or practice within the conduct of commerce within the District of Columbia substantially affecting the District of Columbia's trade and commerce.

264. As a direct and proximate cause of Qualcomm's unlawful conduct, members of the Classes have been injured in their business or property and are threatened with further injury in the form of artificially inflated prices for their Relevant Cellular Devices.

265. By reason of the foregoing, members of the Classes are entitled to seek all forms of relief, including treble damages or \$1500 per violation (whichever is greater) plus punitive damages, reasonable attorney's fees and costs under D.C. Code § 28-3901, et seq.

TWENTY-NINTH CLAIM FOR RELIEF

Violation of the Florida Deceptive and Unfair Trade Practices Act,

Fla. Stat. § 501.201(2), et seq.

(On Behalf of the Florida Class Members)

266. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

267. The Florida Deceptive & Unfair Trade Practices Act, Florida Stat. §§ 501.201, et seq. (the “FDUTPA”), generally prohibits “unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce,” including practices in restraint of trade. Florida Stat. § 501.204(1).

268. The primary policy of the FDUTPA is “[t]o protect the consuming public and legitimate business enterprises from those who engage in unfair methods of competition, or unconscionable, deceptive, or unfair acts or practices in the conduct of any trade or commerce.” Florida Stat. § 501.202(2).

269. A claim for damages under the FDUTPA has three elements: (1) a prohibited practice; (2) causation; and (3) actual damages.

270. Under Florida law, indirect purchasers have standing to maintain an action under the FDUTPA based on the facts alleged in this Complaint. Fla. Stat. § 501.211(a) (“...anyone aggrieved by a violation of this [statute] may bring an action...”).

271. Plaintiffs Kendall Martin and Rodrigo Sapla and members of the Classes purchased Relevant Cellular Devices in the State of Florida during the Class Period. But for Qualcomm's conduct set forth herein, the prices class members paid for their Relevant Cellular Devices would have been lower, in an amount to be determined at trial.

272. Qualcomm established, maintained and used monopoly power in the Modem Chipset Market and SEP Licensing Market through anticompetitive conduct, including, among other things, excluding competitors by refusing to license its technology to them, engaging in exclusive dealing arrangements with its customers to reduce competition, and forcing OEMs to license its patent portfolio, restraining and monopolizing the market for Relevant Cellular Devices in Florida and artificially raising prices for Relevant Cellular Devices in Florida.

273. Accordingly, Qualcomm's conduct was an unfair method of competition, and an unfair or deceptive act or practice within the conduct of commerce within the State of Florida substantially affecting Florida commerce.

274. As a direct and proximate cause of Qualcomm's unlawful conduct, the members of the Classes have been injured in their business or property by virtue of overcharges for Relevant Cellular Devices and are threatened with further injury.

275. By reason of the foregoing, members of the Classes are entitled to seek all forms of relief, including injunctive relief pursuant to Florida Stat. §501.208 and declaratory judgment, actual damages, reasonable attorneys' fees and costs pursuant to Florida Stat. § 501.211.

THIRTIETH CLAIM FOR RELIEF

Claims Under Massachusetts Law

Violations of M.G.L.A. c. 93A, §§ 2, et seq.

276. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

277. Massachusetts' consumer protection laws prohibit unfair methods of competition, which includes violations of antitrust laws. *See* M.G.L.A. 93A § 2.

278. Members of the Classes purchased Relevant Cellular Devices in the State of Massachusetts during the Class Period. But for Qualcomm's conduct set forth herein, the prices class members paid for their Relevant Cellular Devices would have been lower, in an amount to be determined at trial.

279. Qualcomm established, maintained and used monopoly power in the Modem Chipset Market and SEP Licensing Market through anticompetitive conduct, including, among other things, excluding competitors by refusing to license its technology to them, engaging in exclusive dealing arrangements with its customers to reduce competition, and forcing OEMs to license its patent portfolio, restraining and monopolizing the market for Relevant Cellular Devices in Massachusetts and artificially raising prices for Relevant Cellular Devices in Massachusetts.

280. Accordingly, Qualcomm's conduct was an unfair method of competition, and an unfair or deceptive act or practice within the conduct of commerce within the State of Massachusetts substantially affecting Massachusetts commerce.

281. As a direct and proximate cause of Qualcomm's unlawful conduct, the members of the Classes have been injured in their business or property by virtue of overcharges for Relevant Cellular Devices and are threatened with further injury.

282. By reason of the foregoing, members of the Classes are entitled to seek all forms of relief, including injunctive relief pursuant to M.G.L.A. 93A § 9.

THIRTY-FIRST CLAIM FOR RELIEF

Violation of the Missouri Merchandising Practices Act,

Mo. Ann. Stat. § 407.010, et seq.

(On Behalf of the Missouri Class Members)

283. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

284. Chapter 407 of the Missouri Merchandising Practices Act (the “MMPA”) generally governs unlawful business practices, including antitrust violations such as restraints of trade and monopolization.

285. Members of the Classes purchased Relevant Cellular Devices in the State of Missouri during the Class Period. But for Qualcomm's conduct set forth herein, the prices paid by

1 class members for their Relevant Cellular Devices would have been lower, in an amount to be
 2 determined at trial.

3 286. Under Missouri law, indirect purchasers have standing to maintain an action under
 4 the MMPA based on the facts alleged in this Complaint. *See Gibbons v. J. Nuckolls, Inc.*, 216
 5 S.W.3d 667, 669 (Mo. 2007).

6 287. Qualcomm established, maintained and used monopoly power in the Modem
 7 Chipset Market and SEP Licensing Market through anticompetitive conduct, including, among
 8 other things, excluding competitors by refusing to license its technology to them, engaging in
 9 exclusive dealing arrangements with its customers to reduce competition, and forcing OEMs to
 10 license its patent portfolio, restraining and monopolizing the market for Relevant Cellular Devices
 11 in Missouri and artificially raising prices for Relevant Cellular Devices in Missouri, in violation of
 12 Mo. Ann. Stat. § 407.010, et seq.

13 288. Members of the Classes were injured with respect to purchases of Relevant Cellular
 14 Devices in Missouri and are entitled to all forms of relief, including actual damages or liquidated
 15 damages in an amount which bears a reasonable relation to the actual damages which have been
 16 sustained, as well as reasonable attorneys' fees, costs, and injunctive relief, available under the
 17 MMPA.

18 **THIRTY-SECOND CLAIM FOR RELIEF**

19 **Violation of the Nebraska Consumer Protection Act,**

20 **Neb. Rev. Stat. § 59-1602, et seq.**

21 **(On Behalf of the Nebraska Class Members)**

22 289. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every
 23 allegation set forth in the preceding paragraphs of this Complaint.

24 290. By reason of the conduct alleged herein, Qualcomm has violated Neb. Rev. Stat. §
 25 59-1602, et seq.

26 291. Qualcomm established, maintained and used monopoly power in the Modem
 27 Chipset Market and SEP Licensing Market through anticompetitive conduct, including, among

other things, excluding competitors by refusing to license its technology to them, engaging in exclusive dealing arrangements with its customers to reduce competition, and forcing OEMs to license its patent portfolio, restraining and monopolizing the market for Relevant Cellular Devices in Nebraska and artificially raising prices for Relevant Cellular Devices in Nebraska.

292. Qualcomm's conduct was unfair, unconscionable, or deceptive within the conduct of commerce within the State of Nebraska, substantially affecting Nebraska's trade and commerce and adversely affected the ability of Nebraska class members to protect themselves.

293. Members of the Classes purchased Relevant Cellular Devices in the State of Nebraska during the Class Period. But for Qualcomm's conduct set forth herein, the prices paid by class members for their Relevant Cellular Devices would have been lower, in an amount to be determined at trial.

294. As a direct and proximate cause of Qualcomm's unlawful conduct, the members of the Classes have been injured in their business or property and are threatened with further injury.

295. By reason of the foregoing, the members of the Classes are entitled to seek all forms of relief available under Neb. Rev. Stat. § 59-1614.

THIRTY-THIRD CLAIM FOR RELIEF

Violation of the New Hampshire Consumer Protection Act,

N.H. Rev. Stat. Ann. Tit. XXXI, § 358-A, et seq.

(On Behalf of the New Hampshire Class Members)

296. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

297. Members of the Classes purchased Relevant Cellular Devices in the State of New Hampshire during the Class Period. But for Qualcomm's conduct set forth herein, the prices paid by class members for their Relevant Cellular Devices would have been lower, in an amount to be determined at trial.

298. Qualcomm established, maintained and used monopoly power in the Modem Chipset Market and SEP Licensing Market through anticompetitive conduct, including, among other things, excluding competitors by refusing to license its technology to them, engaging in exclusive dealing arrangements with its customers to reduce competition, and forcing OEMs to license its patent portfolio, restraining and monopolizing the market for Relevant Cellular Devices in New Hampshire and artificially raising prices for Relevant Cellular Devices in New Hampshire.

299. Qualcomm's conduct was unfair, unconscionable, or deceptive within the conduct of commerce within the State of New Hampshire, substantially affecting New Hampshire's trade and commerce and adversely affected the ability of New Hampshire class members to protect themselves.

300. As a direct and proximate cause of Qualcomm's unlawful conduct, the members of the Classes have been injured in their business or property and are threatened with further injury.

301. By reason of the conduct alleged herein, Qualcomm has violated N.H. Rev. Stat. Ann. tit. XXXI, § 358-A, et seq.

302. Qualcomm's unlawful conduct substantially affected New Hampshire's trade and commerce.

303. By reason of the foregoing, the members of the Classes are entitled to seek all forms of relief available under N.H. Rev. Stat. Ann. tit. XXXI, §§ 358-A:10 and 358-A:10-a.

THIRTY-FOURTH CLAIM FOR RELIEF

Violation of the New Mexico Unfair Practices Act,

N.M. Stat. Ann. §§ 57-12-3, et seq.

(On Behalf of the New Mexico Class Members)

304. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

305. Qualcomm established, maintained and used monopoly power in the Modem Chipset Market and SEP Licensing Market through anticompetitive conduct, including, among

1 other things, excluding competitors by refusing to license its technology to them, engaging in
2 exclusive dealing arrangements with its customers to reduce competition, and forcing OEMs to
3 license its patent portfolio, restraining and monopolizing the market for Relevant Cellular Devices
4 in New Mexico and artificially raising prices for Relevant Cellular Devices in New Mexico.

5 306. Members of the Classes purchased Relevant Cellular Devices in the State of New
6 Mexico during the Class Period. But for Qualcomm's conduct set forth herein, the prices paid by
7 class members for their Relevant Cellular Devices would have been lower, in an amount to be
8 determined at trial.

9 307. As a direct and proximate cause of Qualcomm's unlawful conduct, the members of
10 the Classes have been injured in their business or property and are threatened with further injury.

11 308. Qualcomm's unlawful conduct substantially affected New Mexico's trade and
12 commerce.

13 309. Qualcomm's conduct constituted "unconscionable trade practices" in that such
14 conduct, *inter alia*, resulted in a gross disparity between the value received by the New Mexico
15 class members and the price paid by them for Relevant Cellular Devices as set forth in N.M. Stat.
16 Ann. § 57-12-2E.

17 310. Qualcomm's conduct was willful, unfair, unconscionable, or deceptive. Thus, by
18 reason of the conduct alleged herein, Qualcomm has violated N.M. Stat. Ann. §§ 57-12-3, and
19 members of the Classes are entitled to seek all forms of relief, including actual damages or up to
20 \$300 per violation, whichever is greater, plus reasonable attorney's fees under N.M. Stat. Ann. §§
21 57-12-10.

THIRTY-FIFTH CLAIM FOR RELIEF

Violation of the North Carolina Unfair Trade and Business Practices Act,

N.C. Gen. Stat. § 75-1.1, et seq.

(On Behalf of the North Carolina Class Members)

311. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

312. Qualcomm established, maintained and used monopoly power in the Modem Chipset Market and SEP Licensing Market through anticompetitive conduct, including, among other things, excluding competitors by refusing to license its technology to them, engaging in exclusive dealing arrangements with its customers to reduce competition, and forcing OEMs to license its patent portfolio, restraining and monopolizing the market for Relevant Cellular Devices in North Carolina and artificially raising prices for Relevant Cellular Devices in North Carolina.

313. Members of the Classes purchased Relevant Cellular Devices in the State of North Carolina during the Class Period. But for Qualcomm's conduct set forth herein, the prices paid by class members for their Relevant Cellular Devices would have been lower, in an amount to be determined at trial.

314. As a direct and proximate cause of Qualcomm's unlawful conduct, the members of the Classes have been injured in their business or property and are threatened with further injury.

315. Qualcomm's unlawful conduct substantially affected North Carolina's trade and commerce.

316. Qualcomm's conduct was willful.

317. Qualcomm's trade practices are and have been immoral, unethical, unscrupulous, and substantially injurious to consumers. By reason of the conduct alleged herein, Qualcomm has violated N.C. Gen. Stat. § 75-1.1, et seq.

318. Qualcomm's conduct constitutes consumer-oriented deceptive acts or practices within the meaning of North Carolina law, which resulted in consumer injury and broad adverse

1 impact on the public at large, and harmed the public interest of North Carolina consumers in an
 2 honest marketplace in which economic activity is conducted in a competitive manner.

3 319. By reason of the foregoing, the members of the Classes are entitled to seek all forms
 4 of relief, including treble damages under N.C. Gen. Stat. § 75-16.

5 **THIRTY-SIXTH CLAIM FOR RELIEF**

6 **Violation of the Oregon Unlawful Trade Practices Act,**

7 **Or. Rev. Stat. § 646.605, et seq.**

8 **(On Behalf of the Oregon Class Members)**

9
 10 320. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every
 11 allegation set forth in the preceding paragraphs of this Complaint.

12 321. Qualcomm established, maintained and used monopoly power in the Modem
 13 Chipset Market and SEP Licensing Market through anticompetitive conduct, including, among
 14 other things, excluding competitors by refusing to license its technology to them, engaging in
 15 exclusive dealing arrangements with its customers to reduce competition, and forcing OEMs to
 16 license its patent portfolio, restraining and monopolizing the market for Relevant Cellular Devices
 17 in Oregon and artificially raising prices for Relevant Cellular Devices in Oregon.

18 322. Members of the Classes purchased Relevant Cellular Devices in the State of Oregon
 19 during the Class Period. But for Qualcomm's conduct set forth herein, the prices paid by class
 20 members for their Relevant Cellular Devices would have been lower, in an amount to be
 21 determined at trial.

22 323. As a direct and proximate cause of Qualcomm's unlawful conduct, the members of
 23 the Classes have been injured in their business or property and are threatened with further injury.

24 324. Qualcomm's willful and unlawful conduct substantially affected Oregon's trade and
 25 commerce.

325. By reason of the conduct alleged herein, Qualcomm has violated Or. Rev. Stat. § 646.608, and members of the Classes are entitled to seek all forms of relief available under Or. Rev. Stat. § 646.638.

326. Pursuant to section 646.638 of the Oregon Unlawful Trade Practices Act, with the filing of this action, a copy of this Complaint is being served upon the Attorney General of Oregon.

THIRTY-SEVENTH CLAIM FOR RELIEF

Violation of the Rhode Island Deceptive Trade Practices Act, R.I. Gen. Laws § 6-13.1-1, et seq.

(On Behalf of the Rhode Island Class Members)

327. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

328. Qualcomm established, maintained and used monopoly power in the Modem Chipset Market and SEP Licensing Market through anticompetitive conduct, including, among other things, excluding competitors by refusing to license its technology to them, engaging in exclusive dealing arrangements with its customers to reduce competition, and forcing OEMs to license its patent portfolio, restraining and monopolizing the market for Relevant Cellular Devices in Rhode Island and artificially raising prices for Relevant Cellular Devices in Rhode Island.

329. Members of the Classes purchased Relevant Cellular Devices in the State of Rhode Island for personal, family or household use during the Class Period. But for Qualcomm's conduct set forth herein, the prices paid by class members for their Relevant Cellular Devices would have been lower, in an amount to be determined at trial.

330. As a direct and proximate cause of Qualcomm's unlawful conduct, the members of the Classes have been injured in their business or property and are threatened with further injury.

331. Qualcomm's willful and unlawful conduct substantially affected Rhode Island's trade and commerce.

332. By reason of the conduct alleged herein, Qualcomm has violated R.I. Gen Laws § 6-13.1-1, et seq., and members of the Classes are entitled to seek all forms of relief, including actual damages or \$200 per violation, whichever is greater, and injunctive relief and punitive damages under R.I. Gen Laws § 6-13.1-5.2.

THIRTY-EIGHTH CLAIM FOR RELIEF

Violation of the Utah Unfair Practices Act,

Utah Code All. §§ 13-5-1, et seq.

(On Behalf of the Utah Class Members)

333. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

334. Qualcomm established, maintained and used monopoly power in the Modem Chipset Market and SEP Licensing Market through anticompetitive conduct, including, among other things, excluding competitors by refusing to license its technology to them, engaging in exclusive dealing arrangements with its customers to reduce competition, and forcing OEMs to license its patent portfolio, restraining and monopolizing the market for Relevant Cellular Devices in Utah and artificially raising prices for Relevant Cellular Devices in Utah.

335. Plaintiff Chris Thompson and members of the Classes purchased Relevant Cellular Devices in the State of Utah during the Class Period. But for Qualcomm's conduct set forth herein, the prices paid by class members for their Relevant Cellular Devices would have been lower, in an amount to be determined at trial.

336. As a direct and proximate cause of Qualcomm's unlawful conduct, the members of the Classes have been injured in their business or property and are threatened with further injury.

337. Qualcomm's unlawful conduct substantially affected Utah's trade and commerce, was intended to and did substantially affect Utah's trade and commerce by suppressing or constituting unfair competition affecting Utah commerce.

338. By reason of the conduct alleged herein, Qualcomm has violated Utah Code Ann. §§ 13-5-1, et seq.

339. By reason of the foregoing, the members of the Classes are entitled to seek all forms of relief, including actual damages or \$2000 per Utah Class member, whichever is greater, plus reasonable attorney's fees under Utah Code Ann. §§ 13-5-14, et seq.

THIRTY-NINTH CLAIM FOR RELIEF

Violation of the Vermont Consumer Fraud Act,

Vt. Stat. Ann. Tit. 9, §§ 2453, et seq.

(On Behalf of the Vermont Class Members)

340. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

341. Title 9 of the Vermont Statutes generally governs commerce and trade in Vermont. Chapter 63 thereof governs consumer protection and prohibits, *inter alia*, unfair methods of competition, unfair and deceptive acts and practices, and antitrust violations such as restraints of trade and monopolization which are prohibited under Vermont law because they are prohibited by the Federal Trade Commission Act. Vt. Stat. Ann. Tit. 9 § 2453(a), (b).

342. Qualcomm established, maintained and used monopoly power in the Modem Chipset Market and SEP Licensing Market through anticompetitive conduct, including, among other things, excluding competitors by refusing to license its technology to them, engaging in exclusive dealing arrangements with its customers to reduce competition, and forcing OEMs to license its patent portfolio, restraining and monopolizing the market for Relevant Cellular Devices in Utah and artificially raising prices for Relevant Cellular Devices in Vermont.

343. Members of the Classes purchased Relevant Cellular Devices in the State of Vermont during the Class Period. But for Qualcomm's conduct set forth herein, the prices paid by class members for their Relevant Cellular Devices would have been lower, in an amount to be determined at trial.

344. As a direct and proximate cause of Qualcomm's unlawful conduct, members of the
Classes have been injured in their business or property and are threatened with further injury.

345. Qualcomm's unlawful conduct substantially affected Vermont's trade and commerce

346. Under Vermont law, indirect purchasers have standing under the antitrust provisions of the Vermont Statutes to maintain an action based on the facts alleged in this Complaint. Vt. Stat. Ann. Tit. 9, § 2465(b).

347. Because members of the Classes were injured with respect to purchases of Relevant Cellular Devices in Vermont, they are entitled to all forms of relief, including actual damages, treble damages, and reasonable attorneys' fees available under Vermont law.

UNJUST ENRICHMENT

FORTIETH CLAIM FOR RELIEF

Unjust Enrichment

(On Behalf of the Arizona, California, District of Columbia, Florida, Illinois, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Oregon, Rhode Island, South Dakota, Tennessee, Utah, Vermont, West Virginia, and Wisconsin Class Members)

348. Plaintiffs incorporate by reference the allegations in the preceding paragraphs.

349. As a result of their unlawful conduct described above, Qualcomm has been and will continued to be unjustly enriched by the receipt of unlawfully inflated prices and unlawful profits of Relevant Cellular Devices.

350. Under common law principles of unjust enrichment, Qualcomm should not be permitted to retain the benefits conferred on it by overpayments by Plaintiffs and members of the Classes in the following states: Arizona, California, District of Columbia, Florida, Illinois, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada.

1 New Hampshire, New Mexico, North Carolina, North Dakota, Oregon, Rhode Island, South
 2 Dakota, Tennessee, Utah, Vermont, West Virginia, and Wisconsin.

3 **XIII. REQUEST FOR RELIEF**

4
 5 **WHEREFORE**, Plaintiffs, on behalf of themselves and the Classes of all others so
 6 similarly situated, respectfully requests judgment against Qualcomm as follows:

7

1. The Court determine that this action may be maintained as a class action
 8 under Rule 23(a), (b)(2), and (b)(3) of the Federal Rules of Civil Procedure,
 9 appoint Plaintiffs as Class Representatives and their counsel of record as
 10 Class Counsel, and direct that notice of this action, as provided by Rule
 11 23(c)(2) of the Federal Rules of Civil Procedure, be given to the Class, once
 12 certified;
- 13 2. The unlawful conduct, alleged herein be adjudged and decreed in violation
 14 of Section 2 of the Sherman Act and listed state antitrust laws, unfair
 15 competition laws, state consumer protection laws, and common law;
- 16 3. Plaintiffs and the Classes recover damages, to the maximum extent allowed
 17 under the applicable state laws, and that a joint and several judgment in
 18 favor of Plaintiffs and the members of the Classes be entered against
 19 Qualcomm in an amount to be trebled to the extent such laws permit;
- 20 4. Qualcomm, its affiliates, successors, transferees, assignees and other
 21 officers, directors, partners, agents and employees thereof, and all other
 22 persons acting or claiming to act on their behalf or in concert with them, be
 23 permanently enjoined and restrained from in any manner continuing,
 24 maintaining or renewing the conduct, conspiracy, or combination alleged
 25 herein, or from entering into any conspiracy or combination having a similar
 26 purpose or effect, and from adopting or following any practice, plan,
 27 program, or device having a similar purpose or effect;

5. Plaintiffs and the members of the Classes be awarded pre- and post-judgment interest as provided by law, and that such interest be awarded at the highest legal rate from and after the date of service of this Complaint;
6. Plaintiffs and the members of the Classes recover their costs of suit, including reasonable attorneys' fees, as provided by law; and
7. Plaintiffs and the members of the Classes have such other and further relief as the case may require and the Court may deem just and proper.

JURY TRIAL DEMANDED

Plaintiffs demand a trial by jury, pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, of all issues so triable.

Dated: February 23, 2017

By: /s/ Daniel Birkhaeuser
Daniel E. Birkhaeuser, State Bar No. 136646
BRAMSON, PLUTZIK, MAHLER &
BIRKHAEUSER LLP
2125 Oak Grove Rd., Suite 120
Walnut Creek, CA 94598
Tel: (925) 945-0200
Fax: (925) 945-8792
dbirkhaeuser@bramsonplutzik.com

Timothy D. Battin
Christopher V. Le
Scott M. Dinner
STRAUS & BOIES, LLP
4041 University Drive, 5th Floor
Fairfax, VA 22030
Tel.: (703) 764-8700
Fax: (703) 764-8704
tbattin@straus-boies.com
mschirmer@straus-boies.com
cle@straus-boies.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
Paul F. Novak
WEITZ & LUXENBERG
719 Griswold, Suite 620
Detroit, MI 48226
Tel.: (313) 800-4166
PNovak@weitzlux.com

Jeffrey A. Bartos
**GUERRIERI, CLAYMAN, BARTOS,
PARCELLI & ROMA, PC**
1900 M Street, NW Washington, DC 20036
Tel.: (202) 624-7400
Fax: (202) 624-7420
jbartos@geclaw.com

Marc G. Reich, State Bar No. 159936
REICH RADCLIFFE & HOOVER LLP
4675 MacArthur Court, Suite 550
Newport Beach, CA 92660
Tel.: (949) 975-0512
mgr@reichradcliffe.com

Abbas Gokal, State Bar No. 264653
Alison Gokal, State Bar No. 257541
GOKAL LAW
101 Pacifica, Suite 100
Irvine, CA 92618
Tel.: (949) 753-9100
Fax: (866) 610-9381
agokal@gokallaw.com
alisongokal@gmail.com

20 *Attorneys for Plaintiffs*
21
22
23
24
25
26
27
28